

**APPROVED MINUTES
SUNNYVALE CITY COUNCIL
TUESDAY, JULY 22, 2008**

4:30 P.M. SPECIAL COUNCIL MEETING (Closed Session) - Conference with Legal Counsel – Existing Litigation Pursuant to Subdivision (a) of §54956.9 Case: Betty Burks v. City of Sunnyvale – Santa Clara County Superior Court No. 1-06-CV-075668

5 P.M. SPECIAL COUNCIL MEETING (Closed Session) - Pursuant to Government Code §54957 – Public Employee Appointment Title: City Manager

SALUTE TO THE FLAG

Mayor Spitaleri: Call this evening's Council meeting to order. Please stand for the Pledge of Allegiance. Audience recited the Pledge of Allegiance.

ROLL CALL

Mayor Spitaleri: Now, roll call.

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Melinda Hamilton
Councilmember John Howe
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Christopher Moylan
Councilmember David Whittum

ABSENT:

None

STAFF PRESENT:

City Manager Amy Chan
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Principal Planner Andrew Miner
Director of Human Resources Erwin Young
Senior Management Analyst Connie Verceles
Revenue Systems Supervisor Tim Kirby
Solid Waste Program Manager Mark Bowers
Director of Finance Mary Bradley
Interim Public Works Director Mark Rogge
City Clerk Gail Borkowski

City Clerk Gail Borkowski: Let the record show that all Councilmembers are present.

Mayor Spitaleri: Thank you. Vice Mayor.

CLOSED SESSION REPORT FOR JULY 15, 2008

Vice Mayor Hamilton: Yes, I have three closed session reports. Last week on July 15th we had a closed session, Conference with Real Property Negotiator pursuant to Government Code

§ 54956.8. The properties are Kasik Parcel and Tasman Parcel. Negotiating Parties: Amy Chan (City); Andy Kasik (Kasik Parcel); Susanna Pau (Tasman Parcel). Under negotiation were the price and terms of payment. We had direction given but no action was taken, and that was continued from before the Council meeting, we continued - concluded that after the Council meeting last week. And then earlier this evening we had two closed sessions, the first one was Conference with Legal Counsel Existing Litigation Pursuant to Subdivision (a) of §54956.9, Betty Burks versus the City of Sunnyvale. Direction was given, but no action was taken. And then the second closed session was pursuant to Government Code §54957 Public Employee Appointment for the City Manager. Again direction was given, but no action was taken.

Mayor Spitaleri: Thank you.

PUBLIC ANNOUNCEMENTS

Mayor Spitaleri: (unintelligible) the time for public announcements. First card I have is Laurie Hughes - Uh, sorry, Councilmember Whittum - I'm sorry, excuse me while I have to make some public announcements up here, sorry. Councilmember Whittum.

Councilmember Whittum: Thank you Mr. Mayor, I have three announcements, first 2008 State of the City Award Nominations. Nominations for the 2008 State of the City Community Awards are now being accepted. Nominations are due Friday, August 1st at 5 p.m. This year the State of the City celebration will be held on Saturday, September 13th at 11 a.m. The mayor and City Council will present awards to outstanding members of the Sunnyvale community including outstanding high school senior, outstanding business person, outstanding community volunteer, outstanding contribution to the arts, outstanding educator, outstanding environmental achievement, and distinguished resident of the year. For additional information, please call the communications division at (408) 730-7535, TDD (408) 730-7501 or visit state of the city, dot, in sunnyvale, dot com, state of the city, dot, in sunnyvale, dot com.

Second announcement. We have an environmental sustainability workshop on Thursday, July 24th, 2008 at 7 p.m. Council will hold a community workshop to present, and update, and pass forward on the City's environmental activities. The workshop will be held in the Council Chambers and it will be televised. Topics will include updates from key departments on significant City activities over the past year including both policies and projects as well as plans for the newly budgeted coordinator. Public comment will be taken. For more information go to green, dot, in Sunnyvale, dot, com - green, dot, in Sunnyvale, dot, com or call the Office of the City Manager at (408) 730-7480, TDD (408) 730-7501.

And one last announcement, just to let you know, also on July 24th, 7 p.m. to 9 p.m., there will be an interactive community workshop, which is for the Parks of the Future project. It will be an ice cream social, activities for children, and who is invited is all Sunnyvale residents and stakeholders. This will be in the Community Center Ballroom at 550 East Remington Drive. That's July 24th, 7 pm. to 9 p.m. and it's a - the purpose is to review the strategies for the Parks of the Future project. So you have two events and presumably members of the family will go to each - different ones - one of them is televised, one of them has ice cream - you have to make your decision.

Mayor Spitaleri: City manager.

City Manager Amy Chan: Just want to make the announcement that - trying to look at the director of parks and recreation, whether he's here - but we have another community meeting scheduled

– I just don't have the dates for Parks of the Future. So for those community members that might have missed this opportunity, there will be another one scheduled shortly. Thank you.

Mayor Spitaleri: Alright, thank you. Okay. Okay, now we'll go to the next public announcement, Laurie Hughes. That's (unintelligible) announcement.

Member of the public Laurie Hughes: Hello Council. Hello Sunnyvale. I'd like to let you know that the Heritage Park Museum is going to be having its dedication ceremony on September 27th. And it's going to be a wonderful day – you should come down and check it out. On that day we'll have a drawing for a raffle that we have a lot of raffle tickets for - where you win a dinner for six and you enjoy a private elegant dinner for six. You're brought to the dinner, you have this beautiful dinner with entertainment and you can invite five of your friends which is great. The wines are donated by Cinnabar Winery and of course the raffle and dinner are sponsored by Toyota Sunnyvale. This – these raffle tickets are twenty dollars and they're tax deductible. Okay. Thank you so much.

Mayor Spitaleri: Thank you, thank you very much. The last public announcement card I have – Vice Mayor Hamilton.

Vice Mayor Hamilton: Yeah, I just wanted to ask the last speaker if there was contact information for people wanting to purchase the raffle tickets. (unintelligible) nab you in the lobby.

Member of the public Laurie Hughes: Thank you. Yes, it's Anne Stewart at Toyota Sunnyvale dot com. Anne with an e on the end. Stewart. Thanks.

CONSENT CALENDAR

Mayor Spitaleri: Now it's Consent Calendar. Anyone wish to remove an item from the Consent Calendar. Councilmember Moylan.

Councilmember Moylan: Mr. Mayor, I need to pull 1.A. and 1.J. off the Consent Calendar.

Mayor Spitaleri: Okay, anyone else like to remove an item from the Consent Calendar. Okay, thank you. Anyone from members of the public - I don't have any cards - anyone from the public want to remove something from the Consent Calendar? Seeing none - Okay - Vice Mayor.

Vice Mayor Hamilton: I make a motion to approve this consent - consent calendar in accordance with staff recommendation with the exceptions of 1.A., 1.J.

Councilmember Howe: Second.

Mayor Spitaleri: Okay, any questions – none - please vote.

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Thank you. Councilmember Moylan.

1.A. Approval of Revised Draft Minutes of June 24, 2008

Councilmember Moylan: Yes, I'm sorry to slow the meeting down but it has been pointed out

to me by staff that, that I spoke imprecisely at this - when I was making this motion that we all voted for - and so we need to clarify that for the record because apparently I was on the tape as saying it two different ways and staff knows that they understood what I meant, but we need to make sure it is recorded here. So, if we take the - you know - the minutes that are before us are the ones that have already been corrected - we have some on the dais and this is a separate correction. Go to page sixteen and there is an amended motion and the second bullet in it, A.3., the deadline for Councilmember proposed study issues. The issue was I was using the terms public hearing and workshop in the wrong order. We have a public hearing first and then we have a workshop, and at the workshop we make the call, okay. And the intent of this was that the deadline would be three weeks before we do the ranking at least, in other words by the public hearing, that would enable a newly elected councilmember to participate in the public hearing if they were already there. There had been some discussion earlier in the meeting that it would actually be a six week deadline, there was - you know - three weeks before the public hearing, and then - and I said no, that is not what I want, I think three weeks should be enough time considering our previous deadline has been zero. Moving it up to three weeks would probably be enough to fix the problem and that is what was intended. Apparently, I said it both ways during the meeting so I'd like to make that correction and that was requested by staff that I clarify that.

Mayor Spitaleri: City clerk.

City Clerk Gail Borkowski: So, Councilmember Moylan, can you actually - in looking at that motion - how would, how should that be restated.

Councilmember Moylan: In the second bullet.

City Clerk Gail Borkowski: Uh hum.

Councilmember Moylan: Where it says - you know - deadlines for councilmembers proposed study issues, establish a deadline for new Council proposed study issues three weeks in advance of the workshop. I shouldn't have said public hearing, I should have said workshop. I was thinking of them in the reverse order in which they actually occur.

City Clerk Gail Borkowski: And the rest of it is fine as it reads?

Councilmember Moylan: As far as I know, no other blunders have yet been discovered and I apologize for the confusion. You might remember me saying during the meeting I didn't want a six week deadline, which I thought was being proposed, I wanted a three, but then I didn't - the words I chose did not match the three, so it was the three week deadline that was intended.

Mayor Spitaleri: Okay, any other questions? You want to open the public hearing on that and there's no cards on that, anyone want to speak on that? Seeing none, I close the public hearing. Councilmember Moylan.

Councilmember Moylan: And I'll move this correction to the minutes along with previous one that we had on the dais.

Mayor Spitaleri: And a second.

Vice Mayor Hamilton: I'll second.

Mayor Spitaleri: To the second, any further discussions, questions? Seeing none, please vote.

City Clerk Gail Borkowski: Motion passes seven, zero. Thank you.

1.B. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.C. RTC 08–228 List of Claims and Bills Approved for Payment by the City Manager – List No. 410

Staff Recommendation: Council reviews the attached lists of bills.

1.D. RTC 08–226 Council Approval by Resolution to Submit Two Applications for Transportation Fund for Clean Air (TFCA) Grant Funding

Staff Recommendation: Council approves Resolutions authorizing the two grant applications for Transportation Fund for Clean Air (TFCA) funding and authorizes the city manager to execute funding agreements for these two projects if the grants are awarded.

1.E. RTC 08–227 Transmittal of the Youth, Family, and Child Care Resources (Program 526) Performance Results Audit for FY 2006/2007

Staff Recommendation: Council receives the audit report and concurs with management's acceptance of recommendations.

1.F. RTC 08–210 Commitment of \$1.2 million in HOME funds toward the ground lease for the development of up to 125 units of affordable senior housing at 660 S. Fair Oaks and approval of Budget Modification No. 1

Staff Recommendation: Council authorizes the city manager to enter into a HOME Agreement to commit \$1.2 million towards an upfront ground lease payment with the County of Santa Clara for the development of an affordable senior housing project of up to 125 units at the County Clinic site at 660 S. Fair Oaks Avenue.

Contracts

1.G. RTC 08–229 Award of Bid No. F0705-95 for Asphaltic Materials for the Department of Public Works Pavement Operations Program

Staff Recommendation: Council awards a one year contract for asphaltic materials on an "as needed" basis to Reed and Graham, Incorporated, of San Jose in substantially the same form as the attached draft Purchase Order and in a total amount not to exceed \$610,000.

1.H. RTC 08–230 Award of Bid No. F0608-20 for Four Fire Engines

Staff Recommendation: Council awards a contract, in substantially the same form as the attached draft Purchase Order and in the amount of \$1,808,459 to Ferrara Fire Apparatus

Incorporated, for four Ferrara Fire Engines.

1.I. RTC 08-232 Authorization to Modify an Existing Contract for Environmental Consulting Services for the Sunnyvale Town Center Redevelopment Project (F0807-01)

Staff Recommendation: Council increases authorized expenditures under an existing two year contract with URS Corporation, and extends by one year, in substantially the same form as the attached draft amendment, for “on-call” environmental consulting services, making a three year contract amount not to exceed \$300,000.

Other Items

1.J. RTC 08-215 Adoption of a Resolution Accepting an Amendment version of the Grand Boulevard Initiative’s Guiding Principles In Providing Direction in the Development of Property Along El Camino Real in the City of Sunnyvale

Mayor Spitaleri: Councilmember Moylan

Councilmember Moylan: Okay, now we move to the Grand Boulevard which as the mayor and vice-mayor know because they have served as our representatives on that task force, I have been their alternates, explain for the purpose of the public. The idea here is every city through which El Camino Real passes has a different zoning plan, a different design for what El Camino should look like and the cities have gotten together and agreed that it would be better for all of us if we could have more - a unified design for that that large corridor. And so over the last couple of years, dozens of city councilmembers from all different cities have been gathering together to try to come up with general principles that all of us should use in doing our land use along El Camino Real, to make it more uniform. And so, what the group finally came up with was ten Grand Boulevard Guiding Principles which appear in the binders under 1.J - I guess its Attachment A. The hope - the request from the task force was that all the cities along El Camino would adopt these and what we have before us tonight is Sunnyvale is saying, “Well, we don’t want to adopt the version everyone is adopting, we are going to make changes to half of them.” And the reason I pulled this is because on, on a basic reading of this, none of those changes seem to be - to represent substantive conflicts between our own El Camino, precise plan for El Camino and what the guiding principles should be. They sort of seem to be quibbles and every time we say we are not going to adopt what everyone else has agreed to, we have our own version, we’re undercutting the whole point of the Grand Boulevard Task Force. You know, to the extent that we possibly can, we should try to adopt the same ones that everyone did. And based on this reading here, I have no problems with any of them. In particular, let me - I want to highlight one. Here’s the one that the task force full of councilmembers recommended; number four: Develop a balanced multi-modal corridor to maintain and improve mobility of people and vehicles along the corridor. Here is the proposed Sunnyvale version: Develop a balanced multi-modal corridor that maintains and improves the mobility of people and vehicles along the corridor. I tried diagramming those sentences and for the life of me, I can not see any difference. There, we really, really, really should not change any of this unless there’s like a real conflict with what the City of Sunnyvale wants for El Camino Real and what other people do. Here’s another good example. Number two, they recommended: Encourage compact mixed-use development and high quality urban design and construction. Sunnyvale has a stricter standard: Require high quality urban design and construction along the corridor. That’s great, that’s certainly - if requiring is certainly a way of encouraging it - to me it is not inconsistent at

all and what I'm hoping is that we'll just adopt the straight ten, but even though this is a consent calendar item and staff shouldn't have to come - you know - with a report, I did give them a heads up about this so they may have some, other side of the issue for you, but this is why I have pulled this.

Mayor Spitaleri: Councilmember Whittum. Before I go to staff, I want to get to any questions and maybe staff can respond to.

Councilmember Whittum: Okay, thanks. I just had a question for staff, but also interested in other peoples opinion. I spoke to members of the public actually from BPAC but for yesterday and one of the interesting comments or suggestions was on item nine which is on, on the left side of the column, the strength and pedestrian and bicycle connections with the corridor, what about proposing the following language where we say no change, extends Sunnyvale's street space allocation policy to El Camino where permitted. So in other words, I think what, what that addresses is where staff later in the future wonder as they are working with Caltrans to - you know - state highway. What is our interest there? Well our interest would be to improve - improve conditions for bikes according to the same way we do on our own streets. So, that's a question. I wonder what staff would make of that and also clearly I have at least one colleague who might have an opinion on that so I'm just curious to hear peoples' thoughts. So, the question is on item nine, adding to, to what is already there, which says strength in pedestrian and bicycle connections with the corridor - add extend Sunnyvale's streetscape allocation policy to El Camino where permitted. Thanks.

Mayor Spitaleri: Okay, Vice Mayor Hamilton.

Vice Mayor Hamilton: I think first I'm going to address Chris's comments and I agree, I understand what your saying, but to me the nuances of the changes to meet the devils in the details, I would frankly much rather require high quality urban design and, some of the things that we're talking about, but also there are references in two of these, in numbers one and two, to these nodes, which is a concept that we have in our El Camino Precise Plan that no one else has, and even in our own plan, its sort of a, carves out a little exception to what else we have in terms of doing (unintelligible) development and higher density and I think that - I think staff is probably going to say that there are other cities that have made small tweaks to this and I think this is really our opportunity to say - you know - we agree overall with what the, what the general goals are but we have some things that are important to us and we want to bring those out here. And I think that, although I don't understand number four except maybe that we're assuming that we already have, we're trying to, we already have a (unintelligible) modal corridor and we're trying to maintain that rather than try to attain it, which is what the first one says but. And on Dave's, I think that's a good, a good thing to add if we have, if that's allowed, considering that's a county highway and not a City street, but I think staff is probably going to respond to that one, I hope.

Mayor Spitaleri: Thank you, Chris I'm going, Councilmember Moylan, I'm gonna have staff respond to some of the points you made, if that's okay, staff.

Principal Planner Andrew Miner: Thank you, my name is Andy Miner and I'm the principal planner for the Planning Division and to kind of address some of the concerns that Councilmember Moylan has brought up. The Grand Boulevard Initiative is made up of, of cities that extend from Daly City to San Jose and as you can imagine the conditions that apply along El Camino Real between all those cities and two counties are very different. The conditions you find in Daly City are quite different than what you find in Sunnyvale and Santa Clara and San

Jose. Particularly what you find in those cities is you have the railroad - the Caltrain runs directly parallel to El Camino Real - so a lot of the conditions that apply in the San Mateo County cities are very different where the train is a half a mile from El Camino in our situation. As you go further south along El Camino Real, the street really becomes more of a auto-orientated street where you have three lanes either direction. In Menlo Park you narrow down to two lanes, the buildings are much closer to the street, ours are set further back. It's a very different feel and when we prepared the precise plan, which was adopted in 2007 by the Council, it was - the intent was to make this - which actually we pre-dated the Grand Boulevard Initiatives Guiding Principles - was to establish a condition that really helped promote and encourage the commercial development along El Camino Real and provided mixed-use housing opportunities in those where you would find the greatest amount of transit opportunities and also in the largest and busiest intersections to where you could really - they become a draw and it would really kind of encourage life and some vibrancy in those locations. As a result, if you look at the first - number one - was the difference, and we've had these discussions with the Grand Boulevard, all the difference cities and the folks at the Grand Boulevard Initiative, is that Sunnyvale really isn't targeting housing along El Camino Real. We are, as Councilmember Hamilton stated, we are targeting in the nodes. We are one of the few cities, probably the only city that has that concept in this area, where we want to have the housing located at nodes, we don't want to have it targeted along the stretch of the street because it's a very important commercial corridor for the City. So, that's why we recommend that change - it makes it consistent with the precise plan - cause right now the precise plan actually discourages residential, it states discourage residential except at the nodes. So we just wanted to make that to be a little more clear. Again, the second one was just we are pretty clear, we are requiring high quality design, so we just took the word encourage and said require. Number four was just to see if you guys were paying attention, no there actually is, it says rather than - alright, I'll give you that one. Develop balance multi-modal corridor to maintain and improve versus that maintains and improves. That's the change there, do with it as you wish. Number six is just saying that it doesn't appear that El Camino Real is a appropriate location for public park, public parks, public meeting spaces. There is really no City owned property, nor probably will there be, so what we state is that to really encourage the developers and the property owners to provide space for the public on their property as a part of their developments. Regarding number nine, I really don't have a problem with the wording as stated. There is constant battle between those that want to have bike lanes on El Camino Real and the businesses that want to have no bike lanes and be able to park on El Camino Real - so having accepting that as a guiding principle could have some conflict in perceived values along the stretch of the street. But, there isn't really a unified - it's not a unified stretch of roadway. The guiding principles are expected to be - the key thing is that we support and we sponsor these guiding principles. And the - Mike Garvey from the Grand Boulevard Initiative has stated he understands that there will be those that will be fine-tuned as long as you really are accepting both the concept and spirit of what the Grand Boulevard Initiative is all about.

Director of Community Development Hanson Hom: And if I may just add, that - you know - as Andy Miner mentioned - you know - Sunnyvale is unique in that we did adopt the precise plan for El Camino Real ahead of what most cities have done. So, when we discuss with the executive director about the fact that we do have policies in place and the fact that they may have a slight emphasis versus the over-arching guiding principles. He did not express a concern with the City modifying the policy slightly to better reflect El Camino Real Precise Plan that Sunnyvale has adopted. And in fact, as you know, the Grand Boulevard Initiative task was actually - gave the cities, El Camino Precise Plan, a visionary plan and encouraging other cities to go the same direction as we have, realizing that each city may have slightly different policies related to what they would like to achieve along their portion of the corridor,

but as long as hopefully their policies will fall within these ten guiding principles.

Mayor Spitaleri: Thank you, Councilmember Moylan.

Councilmember Moylan: Okay, yes, I'm glad that Director of Community Development brought up the award we got from the Grand Boulevard Task Force. It was for our precise plan for El Camino Real because it already does embody these principles. There are no conflicts between our precise plan and the ten principles they ask us to adopt. Number one, target housing and job growth in strategic areas along the corridor. Sunnyvale has chosen the nodes as this strategic area that it would chose to focus its housing on. That is completely consistent, there is no conflict. The guiding principles they are asking us to adopt are all very broad, recognizing that - you know - each city does have a different piece of El Camino and we'll have our own more specific version of it, that's okay. It doesn't mean the guiding principle doesn't apply to our City or that we don't have a more specific version of it. You know, there is no conflict there and what we are doing in our precise plan exactly fits all of these things. Okay, with regard to the question about let's change another one, change number nine, well you know, A, I don't think we should, but B we don't need to. Because if the request is referring to our new policy of giving mobility modes priority over stationary modes along city streets. I think that's probably what the member of the Bicycle and Pedestrian Advisory Commission (BPAC) was asking about, well that's covered in number four, that's the whole point, that's the mobility one. To say that we should really emphasize the El Camino for mobility purposes rather than - than the other stuff so that's already in there and number nine just points out and we meant bikes too. Okay, so number four doesn't say bikes, number nine says bikes, but number four says all mobility.

Councilmember Whittum: So, you won't object to adding bikes to number four.

Councilmember Moylan: I object to any change in this at all. I think it is ridiculous. I think we are quibbling, I think our existing precise plan is exactly what they want and I think if they come back and we have thirty-five different versions of these ten principles, every city is going no, no, no, I want my version, then the whole point of what we've been doing for two years is a big waste of time. That's what I think. And let me respond to the one about - oh I did, okay the bikes, the nodes, it's all taken care of. We should just endorse these things as they are, our precise plan exactly fits it, and it, its not worthy of us to go back to them and go oh but everyone else should have to change it to match Sunnyvale or Sunnyvale's not going to sign on because we do it a slightly different way. What we're doing is completely within these principles, let's just adopt them.

Mayor Spitaleri: Councilmember Whittum

Councilmember Whittum: Oh, thanks. So, I mean I appreciate the discussion, that's kinda what I wanted to hear some discussion. I actually disagree, I think that there was some value to the discussion, whether it's addition of the one word, bikes to number four or to the other and the value is to just express what we, how we prioritize bike, bike transit, and I think that was, that really was the question and that is not obvious as you heard the staff say well there are conflicts and so the question of priority is, is one that were not really resolving with this, this document as it is. But anyway, I appreciate the discussion and maybe the discussion will continue on after this, thanks.

Mayor Spitaleri: Anyone in the public that would like to discuss this issue with us? Seeing none, I'll close the public hearing. Oh Art, alright, you just made it under the gun.

Member of the Public, Arthur Schwartz: Mayor and Council, I apologize, we walked downtown for dinner with my granddaughter from Portland, so we are a little late. I have to agree with Councilmember Moylan. I would like to see you adopt the contract as it is written and not try and alter, change it for these few minor points. Any delay in adopting this on the part of the cities is just gonna foul things up in getting the street improved the whole length and I think that there is no conflict, I agree, between the language of the (unintelligible) and the language that Sunnyvale is proposing. One is inclusive, the other is exclusive and I think we ought to make ours inclusive with the rest of the cities. Thank you.

Mayor Spitaleri: Thank you and would you give your card to the City Clerk. Anyone else in the public? Seeing none, I'll close the public hearing. Okay, what's the wishes of the Council? Councilmember Moylan.

Councilmember Moylan: Okay, I move alternative two, adopt a resolution to endorse the original ten guiding principles of the Grand Boulevard Initiative.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: I'll second.

Mayor Spitaleri: Okay, any other questions, discussions? Seeing none, please vote.

City Clerk Gail Borkowski: Motion passes ~~5 to 3~~ **five to two** with Vice Mayor Hamilton and Councilmember Whittum dissenting.

1.K. RTC 08-216 Adoption of a Resolution to Participate in the FOCUS Priority Development Area (PDA) Program in Order to be Awarded a Grant for Efforts to Encourage More Housing and to Improve the Community Area Adjacent to Transit

Staff Recommendation: Council adopts a Resolution to allow staff to make an application for the FOCUS PDA designation.

Mayor Spitaleri: Okay, next before us is staff response to public comments. Do we have any staff reports?

City Clerk Gail Borkowski: Excuse me Mayor

Mayor Spitaleri: Yes.

City Clerk Gail Borkowski: Before we move on, there was an item that was a information only item and I just wanted to bring to Council's attention that there is a revised document on the dais. Number nine, it's a revised document that has to do with the quarterly attendance reports for the boards and commissions. The City Clerk's Office received some updated information that corrected, actually modified some information in the previous report that was in your packet. So, we provided new copies that show the actual and include the updated information that we received.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

Mayor Spitaleri: Okay, thank you. Okay, is there any staff response to prior public comments?

PUBLIC COMMENTS

Mayor Spitaleri: Okay, now its time for public comments, which is allowable for fifteen minutes. I do have six cards. So in order to get all six in, some are here for the same issue, if you could get right to the point and get your message across and everyone will get a chance to speak. Okay. First card is Kevin Ngo.

Member of the public Kevin Ngo: Good evening, thanks for having me here. My name is Kevin Ngo and I live at Danbury Place over by Fair Oaks and Tasman. I've been living there for over three years now and when I first moved in, we're directly across street from a company called Genesis, also known as Axitron now, they recently changed their name. When I first moved in, I didn't realize that that Genesis was violating the noise rule set forth by the City, which is 45db for nighttime hours, so I never mentioned anything until recently one of the new neighbors that moved in, as the development continued, realized that the noise was just way too loud and asked the City to do a test and when the City did measure some tests, it came out to about 51.5db. Now, just to give you some background behind db, its not like if your 6.5 miles above fifty miles, its not a huge difference; whereas, db is calculated by logarithmic calculations, so it's a certain times, and I believe one of our residents did a calculation and its almost like two to four times the allowed noise level and it makes it really difficult for us to sleep especially when we are trying to help the City by conserving energy during the hot summer months to leave our windows open and we can't get a good nights sleep when we do leave the windows open. Unfortunately, rather than trying to be more community friendly, the company Genesis has taken their action of applying for a variance, rather than fixing the noise within the City limits and we've got about a dozen residents here tonight and we just want to express that we're opposing that variance and we're actually in favor of the City enforcing the required limits upon the company Genesis right across the street from Danbury Place on Karlstad.

Mayor Spitaleri: Okay, well thank you.

Member of the public Kevin Ngo: Thank you. Oh, I'm sorry, we have a petition that we signed and we'd like to submit it.

Mayor Spitaleri: Give it to the city clerk please. Next person, I believe is Sue Jin.

Member of the public Sue Jin: Thank you and I'm also a resident at Danbury Place and I actually live even closer to the company. I'm actually just a wall behind of the company and for me, I'm having a serious sleeping issue and I could not actually sleep at night. I'm currently seeking a doctors medical help to actually help me to sleep. And that's becoming a very serious issue and I have moved into Danbury Place since the end of last year and its really, we have really been suffering from this so we hope that the City will be able to help us to solve this issue. Thank you.

Mayor Spitaleri: Thank you. Councilmember Swegles.

Councilmember Swegles: Yeah, in regards to the variance that they are referring to, I believe that's - won't they go to - well, go to staff and then to Planning Commission or will that even come to the City Council.

Director of Community Development Hanson Hom: It would come to the City Council on a (unintelligible), it would be an item, we have not received application yet, but we did inform the applicant that a variance application was needed and it would go through the Planning

Commission for a full public hearing once we get a complete application and can prepare the staff report.

Councilmember Swegles: Okay, thank you.

Councilmember Howe: Yeah, following on Councilmember Swegles question, has staff gone out there as the person said, the previous speaker, and verified that the levels are above the noise ordinance?

Director of Community Development Hanson Hom: Yes, we have. In fact we have done a fair amount of discussion with the applicant and also the property owner of the property regarding the situation which is (unintelligible) development. The situation arose with (unintelligible) rezoning the property to a residential designation versus the ITR designation would have allowed some industrial to continue on the site so thus they're currently non-conforming with noise. So, we did inform them that there is a variance application that's now needed. We can certainly provide the Council with further information via an update on when the application is received.

Councilmember Howe: Sure, thank you very much. City manager if you could include that in an upcoming report of yours, I would appreciate it. Thank you.

Mayor Spitaleri: Okay, next speaker is Joong Gun Lee. I said that right I hope.

Member of the public Joong Gun Lee: Hello, my name is Joong Gun Lee (unintelligible) same issue as my neighbors and yeah my wife is (unintelligible) about the noise coming from the neighboring company and then making, actually they are turning on the machine all way so even at night so you can easily see we cannot open the window so I want actually somebody work on this problem so we can (unintelligible).

Mayor Spitaleri: Alright, thank you.

Member of the public Joong Gun Lee: Thank you.

Mayor Spitaleri: Mei Mon Peng, is that right?

Member of the public Mei Mon Peng: Hi, good evening all Council. I have same problem in Danbury, mine just right close by and also -

Mayor Spitaleri: Excuse me, could you state your name for the record please.

Member of the public Mei Mon Peng: Okay, also in a between two -

Mayor Spitaleri: No, can you state your name for the record.

Member of the public Mei Mon Peng: Okay, my name is Mei Mon Peng.

Mayor Spitaleri: Thank you very much.

Member of the public Mei Mon Peng: My concern is really the noise is over the - you know the - that exceeded noise limit. Upstairs much louder than what the measurement is. They measure only - you know - first floor and our bedroom third floor and second floor and by (unintelligible) we also between two lots and then we have hallway and I can't even hear the front (unintelligible)

everywhere in whole house. So, and I really couldn't even sleep, (unintelligible) make myself wore out and I had to - you know - really it's a nightmare in the house. I was so happy living close to work and now just really a nightmare for me. Also (unintelligible) considering reducing our resale value whole area too and like I say I can't even hear from the front, the back of the whole house (unintelligible) and I just want to (unintelligible). Thank you

Mayor Spitaleri: Thank you. And my last card is Maria Peng or Pen.

Member of the public Maria Peng: Good evening Councilmembers. I am here to talk again about homeless housing and I understand the Council is talking to housing providers for this upcoming project and I was wondering if Council would consider just working with one housing provider. And last week I had recommended perhaps a faith based organization to provide homeless housing. So would it be more efficient to deal with just one housing provider, namely *Charities Housing*, rather than having to deal with two. This would decrease the overhead, especially every year there is an annual inspection so if there are two properties, then the City has to inspect two properties. So, I'd like to ask Council to consider working just with *Charities Housing*.

Mayor Spitaleri: Excuse me, I have a question. Vice Mayor Hamilton.

Vice Mayor Hamilton: I'm a trying to find out which project you're referencing. We have a couple of different things going on in the City in regards to homeless housing and I'm unclear on exactly which one you're referring to.

Member of the public Maria Peng: Oh, I'm sorry. The Onizuka Redevelopment plan.

Vice Mayor Hamilton: Okay.

Mayor Spitaleri: Oh.

Vice Mayor Hamilton: Thank you.

Member of the public Maria Peng: Any other questions?

Mayor Spitaleri: Okay, thank you. Any other questions? No. Thank you very much. That's the extent of our public - Councilmember Howe.

Councilmember Howe: Yeah, just a quick question of the director. A number of people came up and spoke about a potential variance. If a variance is applied for and there's going to be a public hearing, does the person who asked for the variance go through the City and notify people within a five hundred foot radius?

Director of Community Development Hanson Hom: The City would actually do the notification and the current rules are 300 feet, but because is Danbury Place is a condominium with some common areas - you know - we'll be notifying the association as well as individually all of the property owners within 300 feet of the property, which really borders significant portion of the Danbury Place.

Councilmember Howe: Thank you.

Director of Community Development Hanson Hom: Yeah, this was an existing use that was - has been in place since the late ninety's, but with the zone change it raises some zoning issues now.

Councilmember Howe: Thank you very much.

Mayor Spitaleri: I have a question of staff (unintelligible) up on Councilmember Howe's saying that we've been going out there to check and found that some of the noise has been above what City allows. What to me is done to keep that from happening till they have their variance heard?

Director of Community Development Hanson Hom: We're discussing with them if there is some way - you know - where they can mitigate the noise, because the findings for variance cause it has to apply to residential standards are quite severe - you know - there's some difficulties on whether they can, can really meet the findings for the variance, so we are kinda working with them on, they may need to apply for a variance, but are there ways they can fiscally reduce the noise at this time. So, we are kinda looking into that. The other issue is a twenty-four hour operation. It's been a twenty-four hour operation for quite a long time now, since I think the beginning of operations so that adds an additional difficulty to the operations that there is - you know - activity at night.

Mayor Spitaleri: Is there any talk about maybe reducing the amount of time the generators can be used at night or?

Director of Community Development Hanson Hom: Well, the generators were meant to be the back up emergency generators so the noise is really related to the operational. I think some of the scrubbers are creating some noise, just related to the industrial operations. Yeah, if it were just the generators, that wouldn't be the sole problem cause generators just for the back up power whenever it's needed.

Mayor Spitaleri: Okay, well thank you. Okay, now were to the public hearing and general business and the first item before us is RTC 08-225. Do we have a staff report?

PUBLIC HEARINGS/GENERAL BUSINESS

2. RTC 08-225 Request to initiate a Specific Plan Amendment Study to the Downtown Specific Plan for an increase in the allowed number of stories from five to six stories for the new hotel only (no increase in height) and various amendments to increase the allowable signage

Director of Community Development Hanson Hom presented the staff report.

Vice Mayor Hamilton: Okay, and agreeing to do this tonight does not necessarily commit us to having the six stories, it just looks at what the impact would be.

Director of Community Development Hanson Hom: That's correct.

Vice Mayor Hamilton: Alright, thank you.

Mayor Spitaleri: Any questions? I'll open the public hearing. I do not have any cards on this. Seeing none, I'll go ahead and close the public hearing. Councilmember Howe.

Councilmember Howe: Mr. Mayor, I move the staff recommendation, authorize the initiation of a Specific Plan Amendment Study for an increase in the allowed number of

stories from five to six stories for the new hotel and various amendments to increase the allowable signage.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Second.

Mayor Spitaleri: Any other discussion or questions? Seeing none, please vote.

City Clerk Gail Borkowski: Motion passes seven to zero.

Mayor Spitaleri: Councilmember Swegles? Okay, next item before us is RTC 08-231. Do we have a staff report?

3. RTC 08-231 Selection of Community Members to Serve on Interview Panels for New Sunnyvale City Manager

Vice Mayor Hamilton: I'm going to go ahead and do the staff report on this one.

Mayor Spitaleri: Okay, Vice Chair.

Vice Mayor Hamilton: I mean this is really, the selection of the two panels tonight for the city manager interview and we had 23 applicants apply to be forwarded. Twenty-two of those are on here and what we'd like to do is, the recommendation the sub-committee came up with was do paper ballots and I have seven of them up here. There are the names of all the people who applied. Councilmembers can put up to eight checks in each column so for the business column, for the resident column, then we thought we would have HR tabulate those and come back and see if we have any ties we need to break. Anybody who gets four or more votes would be included on the panel up to eight members. And then if we have more than eight members who got four or more votes, then we would have to come back and decide how we're going to deal with that. So that's all I have to say. Erwin, do you have anything to add to that or did I pretty much cover it.

Director of Human Resources Erwin Young: You just want to add that one issue about the one individual with the -

Vice Mayor Hamilton: Oh, there was one individual who did not specify a category. Staff put that person in the resident category but on the ballot we left that open for either category so you can choose to put the person in either category.

Mayor Spitaleri: Okay. Councilmember Swegles.

Councilmember Swegles: Yeah, actually that's the one candidate I happened to notice and I think considering who Adam Simms is, would be better served to be in the business category as opposed to resident. I would recommend we move him up to business.

Vice Mayor Hamilton: Well, as it stands right now, you can vote to put him in either. So I'm hearing you're encouraging your colleagues to vote to put him on the business one.

Mayor Spitaleri: Okay. Councilmember Moylan.

Councilmember Moylan: Yes, I didn't hear madam Vice Chair, did you point out that we'd agreed that Councilmembers may vote to up to eight people on either side?

Vice Mayor Hamilton: I did mention that.

Councilmember Moylan: Okay, I didn't hear it. Thanks.

Vice Mayor Hamilton: Yeah, you can have up to eight on either side. You can vote for less

Councilmember Moylan: Excuse me yes, on both sides. And you know if you have -

Vice Mayor Hamilton: - on either side.

Councilmember Moylan: - on each side.

Vice Mayor Hamilton: You can total eight in one column, eight -

Councilmember Moylan: Up to eight residential, up to eight business and of course some of those could be the same person if it's a resident who is also a business person such as Mr. Simms that Councilmember Swegles was just talking about. Okay, now is someone going to give up ballots or do we already have those.

Vice Mayor Hamilton: I have ballots right here.

Councilmember Moylan: Oh, okay good.

Vice Mayor Hamilton: Yeah. So, if you go ahead and mark your selections and then we'll - can get them to Erwin and then if we can continue this item while they do the tabulation, well, we can come back to this.

Mayor Spitaleri: Okay, after we, after we -

Vice Mayor Hamilton: After, after, yeah, after they tabulate them we can come back and see what the results are.

Mayor Spitaleri: And so we're going (unintelligible) select our residential and business persons.

Vice Mayor Hamilton: Right, eight in each column.

Mayor Spitaleri: Okay.

Councilmember Moylan: Eight or less in each column.

Vice Mayor Hamilton: Make sure you put your name on it and sign it at the bottom.

Mayor Spitaleri: Yes, city manager. Okay, we're going to go ahead and open the public hearing on this item. I don't have any cards. I don't have any cards in front of me. If anyone wants to speak about this process, now is the time to come. Seeing none, I'll close the public hearing. Councilmember Howe.

Councilmember Howe: Yes, Mr. Mayor, if its appropriate, I would make a motion to continue this item until such time later this evening that the mayor chooses to recognize the director of human resources.

Mayor Spitaleri: Okay, I need a seconder.

Councilmember Swegles: Second.

Mayor Spitaleri: Second, Councilmember Swegles okay, you seconded it. Okay, please vote.

City Clerk Gail Borkowski: Motion passes six, zero with Councilmember Lee being absent.

Mayor Spitaleri: Okay, next item before us is RTC 08-207. Do we have a staff report?

4. **RESOLUTION Public Hearing to Consider Approval to Levy and Collect an
RTC 08-207 Assessment for the Downtown Parking Maintenance District for
FY 2008/2009 and approval of the Final Engineer's Report**

Senior Management Analyst Connie Verceles presented the staff report.

Mayor Spitaleri: Any questions? Seeing none, I'll open the public hearing. I do not have any cards on this item. Seeing none, I'll go ahead and close the public hearing.
Councilmember Howe.

Councilmember Howe: I move within the staff's recommendation alternative – I'm sorry.

Senior Management Analyst Connie Verceles: We have to get the results from the ballots.

Councilmember Howe: Oh, Okay.

Mayor Spitaleri: - thought that was going to be part of his motion to continue it until we get the, the votes. Are we ready?

Councilmember Howe: Are the votes done?

Senior Management Analyst Connie Verceles: Oh, he's running down the hall.

Mayor Spitaleri: As we speak, he's running.

Senior Management Analyst Connie Verceles: The assessment passes with fifty-one percent yes in favor and 48.89 percent a no, so the assessment passes.

Mayor Spitaleri: A close vote.

Councilmember Swegles: Wow.

Councilmember Howe: A question of staff. Are those votes public?

Senior Management Analyst Connie Verceles: They're ballot information and I believe

they are part of public record, yes.

Councilmember Howe: There you go. Would you – well, I'll make the motion and then you'll see where I'm going. I move alternative number 1, that the vote is tabulated in support of the proposed assessment, adopt the resolution to levy and collect the assessment for the district for FY 2008/2009, approve the final engineer's report, and direct staff to instruct the engineer to forward the assessment to the County for inclusion on the property tax rolls; and that the votes will be part of the minutes.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Second.

Mayor Spitaleri: Any further discussion or questions? Seeing none please - Vice Mayor Hamilton.

Vice Mayor Hamilton: I have a clarification. When you say you want the votes as part of the minutes, you just want basically a list of who vote for and against it

Councilmember Howe: Who voted for it and who voted against it by however the staff chooses to identify them as they did on the ballots. (see Attachment A)

Vice Mayor Hamilton: Okay, just want to clarify. Thank you.

Councilmember Howe: Yep.

Mayor Spitaleri: Okay, try this one more time, any discussions, questions? Seeing none, please vote.

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Thank you. Next item before City Council is RTC 08-221. Have a staff report.

5. RTC 08-221 Adoption of Proposed Fiscal Year 2008/2009 Rates for the Solid Waste Utility

Revenue Systems Supervisor Tim Kirby presented the staff report.

Mayor Spitaleri: Councilmember Howe

Councilmember Howe: Thank you. The question has to do with the service level for Rancho. Is there any

Revenue Systems Supervisor Tim Kirby: This is the solid waste rates.

Councilmember Howe: Solid waste. I'm sorry.

Revenue Systems Supervisor Tim Kirby: No problem.

Mayor Spitaleri: Okay, any other questions of staff? Seeing none, I open up the public

hearing. Some cards here. Michael Trapp.

Member of the public Michael Trapp: Good evening mayor, Councilmembers. Basically I'm here to protest the rate increase. Looking it over, the form that we got only stated the rate increase, it didn't state as a resident I look at all my garbage removal options here, which includes the clean, the twice year extra dumps, recycling, the whole nine yards is - you know - I have to get rid of it somewhere. And looking at the services it looks like it's a drastic increase in cost with a drastic decrease in curbside service for the residents. I, for one, use the unlimited service plan and every week I put out at least one or two extra bags and mainly it's for recycling that can't fit in the recycling bin. I recycle all my mixed paper, it doesn't go into the newspaper recycling, can be recycled at the SMaRT station, but instead of throwing it in with the rest of the garbage, I have a separate bag that I put it with. Same thing with Styrofoam containers. It can be recycled but it doesn't go in the recycling bin so it ends up going as a separate bag next to the garbage. And this fluctuates throughout the year so on average I probably put out at least one or two extra bags a week on top of my ninety-six gallon. And according to this rate increase, I'm going down to one, ninety-five container and no change in recycling or anything else is ever stated. Also, I noticed on the *Choice Collect* it wasn't part of the rate plan but we've now gone, instead of having a bi-annual spring and fall clean-up, where I had a month long of unlimited garbage pick up, I now have two pickups on-call. And those pickups must be within a six foot, by three foot, by three foot, two cubic feet. If I measure a thirty-two gallon or a thirty-nine gallon trash bag filled up, it measures roughly two by two by two. That means I only get three bags twice a year. So, if I was looking at it twice, eight week long of unlimited, I now have basically six bags I can give away for free, otherwise I'm paying six dollars a bag for it. If they came back with say a sixty dollar a month for unlimited service tier on top of the ninety-six, I'd been fine with that, but instead we've eliminated the unlimited altogether, no option, no period. I need to see all the options. I can't choose one without seeing all my options. As a homeowner, I need all the options.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Yeah, with the mayor's permission.

Mayor Spitaleri: You got it.

Councilmember Howe: Can you speak to the unlimited, what it is now and what it would be in the future. Not dollars, but is there an unlimited option on this plan.

Solid Waste Program Manager Mark Bowers: There is not an unlimited option in the new rate structure. Unlimited, well, theoretically, you could have unlimited service as long as you are willing to pay the extra bag charge for every bag you put out. The rate structure is putting the emphasis on paying cost of service. What you generate and the cost that you generate for a solid waste utility is reflected in what you pay for the service.

Councilmember Moylan: Question.

Mayor Spitaleri: Councilmember Moylan.

Councilmember Moylan: Did I understand you to say that, that you separate your mixed paper and put it in a separate bag because you feel if it goes in the regular garbage can it doesn't get recycled.

Member of the public Michael Trapp: It's harder for the SMaRT - you know - folks to actually - they have to go through and dig out all that paper and all that Styrofoam.

Councilmember Moylan: They do it though. You know, I had the same reaction as you when I first moved here and they said it was actually easier for them to do it that way and that's, that's - so all your stuff is actually getting recycled, you know.

Member of the public Michael Trapp: Yeah, and cardboard basically had to be within a certain bundle size.

Councilmember Moylan: Yeah, I know, I do those too.

Member of the public Michael Trapp: I never did that bundle, it was just easier to rip up the boxes and throw em in a bag so there's just one bag.

Councilmember Moylan: Right.

Member of the public Michael Trapp: I have a neighbor right now, she has probably twenty bags of garden yard waste that she has put out. Well, at six dollars a bag now - you know - that's almost too much for her to pay.

Councilmember Moylan: Okay, but you did hear that this is, the reason they proposed this is cause we have this policy that we break even on it. We don't make any money but we have to recover the whole, the City's costs from the people who are generating the trash, right.

Member of the public Michael Trapp: And I'd be happy, there was a level of service above just the ninety-five that might take into account one or two bags a week.

Councilmember Moylan: Well, I think we just heard that you could.

Member of the public Michael Trapp: (unintelligible) dollars.

Councilmember Moylan: You could, it's just - it's like the airlines now the extra bag is going to cost you, they're now finally passing that cost onto us.

Member of the public Michael Trapp: And were not finding - everything is not in the same deal, its being handed out little, by little, by little knowledge. I still - you know - debris boxes, is that changed any. I know before you could only go through one City vendor and it cost like six hundred dollars, Sunnyvale can go to anybody basically to get -you know - the ninety-nine dollar debris box that we couldn't do in Sunnyvale.

Councilmember Moylan: I saw the director of finance just making sign language at me to suggest that she has an answer to your question.

Director of Finance Mary Bradley: Well, I believe that the solid waste manager has some really good news for you that we probably didn't discuss in the report that we did discuss at the study session so -

Solid Waste Program Manager Mark Bowers: Mr. Mayor, if you'd indulge me I could address

a number of these service related issues. In terms of the recycling program, we are adding mixed paper to the recycling program with the cart roll out as of September 15th. We ran a pilot program on one of our recycling routes to see if we had enough excess capacity on the newspaper side of the cart now that fewer people subscribe to the newspaper and the newspapers are smaller and we found that we were able to add that material to the newspaper side of the cart with no increase in driver time on route and an increase in the tonnage we collected and a bottom line increase in revenue, so that change is becoming effective September 15th. As always any recyclable that we take in the curbside program, if there are extra bags set out next to the recycling cart, those are taken at no extra charge. And the same is true for the yard waste, if there's excess yard waste we can take that in a thirty gallon can in an unlimited way. Because we'd like to see the residents take their materials and move those recyclables and compostables into those two unlimited services. Just a math comment, in terms of the quantity for the extra pick-up, what we are calling the limit is two cubic yards, which is quite a bit more than two cubic feet so I apologize for the confusion. At six feet long, three feet wide, and three feet high is a typical two cubic yard pile. And then on the debris boxes, we have a significant change in the debris box rates, one of the outcomes of this cost of service study was to decrease debris box rates, Tim, help me out here, I think it was on the order of twenty to twenty-five percent or eighteen to twenty-two percent, in that range. So there's a significant drop in the debris box rates. We had been aware that our rates were significantly higher, 21.7 to 25.3 in that range. And so we asked the consultant that did our cost of service study to take an especially careful look at our (unintelligible) and our density assumptions as so forth and that what we got back on the debris box rates. I would also note that the ninety-nine dollar debris box doesn't cost ninety-nine dollars, it costs ninety-nine dollars plus the cost of the dump. We roll our costs all into the one price so there is no added cost after at the box is unloaded at the dump site.

Mayor Spitaleri: Okay, thank you. Councilmember Swegles.

Councilmember Swegles: Yeah, with the mayor's permission. Mark, in regards to the yard waste, don't we have, or is that just San Jose, that has a green bin or green container for yard waste.

Solid Waste Program Manager Mark Bowers: We provide the residents with a ninety-six gallon or sixty-four gallon green (unintelligible) cart, just like the current garbage carts.

Councilmember Swegles: Okay, and that's at no additional, that's part of the process.

Solid Waste Program Manager Mark Bowers: That's part of the basic residential rate, yes.

Councilmember Swegles: And I think we're going to extend that to those that may not have that service.

Solid Waste Program Manager Mark Bowers: Well, everyone eligible for the service, which we've had some discussions as we're rolling out the new program in mobile home parks and hearing some sentiment from mobile home park managers who are interested in beginning to participate where they had not before and that is going to be implemented - you know - at any time and its not something that depends on any action by Council, we can do that any time.

Councilmember Swegles: Thank you very much.

Mayor Spitaleri: Okay, thank you sir, I hope that answers some of your questions.

Member of the public Michael Trapp: It did. The one question I had again was on the recycling side, you said extra bags sit next to the recycling would not cost.

Solid Waste Program Manager Mark Bowers: That's correct, yes.

Member of the public Michael Trapp: Okay, so -

Solid Waste Program Manager Mark Bowers: It's unusual for someone to have more recyclables than will fit in a week but it can happen if you have a party and a large household. Occasionally, we'll have people set out an extra paper bag with their bottle and cans or whatever and yeah, those will be picked up by the recycling driver.

Member of the public Michael Trapp: The main thing is if I buy big furniture comes in the big Styrofoam that weighs nothing but takes up a lot of volume.

Mayor Spitaleri: Okay, thank you sir.

Solid Waste Program Manager Mark Bowers: Yeah, we don't take Styrofoam as part of the recycling program that would have to go in the garbage.

Mayor Spitaleri: Okay, thank you. Next card is and please forgive me if I don't say this right, Sarkissian, Krikor. Not too bad.

Member of the public Krikor Sarkissian: Good evening everybody. I have a few questions about the rate hike and one of them is why the rate difference for the same size trash bin for mobile home park versus single family unit. The trash doesn't smell the same? It's the same size trash bag. A little humor there but. And another comment, I think the finance person made that overall is a five point five percent raise, that is, does not make sense. With the math because you comparing unlimited amount of trash you can put out versus limited amount yet still raising the price, the charge for the trash. I don't know if you understood what I said, that was a little bit mixed up. When you limit the different amount of rate for versus sixty-five to ninety-six, ninety-five whatever, what's going to happen for some people which I have seen personally, they going to use ninety-five gallon trash bin and whatever left over, put in a plastic bag and go visit one of those grocery store garbage bins and it's going to encourage, quote, unquote, criminal behavior. I've seen with my own eyes, some my neighbors do that. That they take the garbage - you know - they take it with them, their going to work, they dump it over there. So, it should - you know - the rate increase, its okay, I understand everything, the price going up, I mean the gas, everything else but the decrease of service, in my opinion is not acceptable. If you have any questions, I'd answer you.

Mayor Spitaleri: Alright, thank you. Any questions? No. Did you want to respond?

Revenue Systems Supervisor Tim Kirby: Yes, Mr. Mayor, thank you. Regarding mobile home versus single family rate, mobile homes, it's a cost of service issue, mobile homes are closer together, the streets are clean, they're very straight forward to collect so the efficiency is reflected in the rates. Regarding the five and half percent increase, its - forgive me for confusing any members of the public here - there is an overall requirement that the solid waste utility needs to meet every year, that is going up as a whole by five and a half

percent. Within that, there are different prices and those are moving around, in different percentages. So that's where a lot of time the confusion comes in. And I'll turn it over to Mark for the issue with illegal dumping.

Solid Waste Program Manager Mark Bowers: Certainly, it's a possibility we may see more unwanted behavior of that nature, we discussed that in the study session. We see unwanted behavior with the current system in which we see have some unlimited customers who as we discussed haul business waste home from other communities and put it out as residential waste and things like that so you get some bad actors either way you go and just kinda of you pay your money and take your choice.

Mayor Spitaleri: Okay, thank you. Councilmember Lee.

Councilmember Lee: Yeah, a just quick follow up questions. The question raised earlier was regarding the size of the gallons being the exact same size - you know - same junk in there, same smell and why should one cost more than the other. And let me see if I could understand the answer is, basically its part of the transportation (unintelligible) and how many business you could pickup an hour for example, being the fact that mobile homes are very close to each other and very much lined up, the number of business you can pickup in an hour for example would be much more than the regular single residence home; therefore, the rates for mobile home pickup per bin for that reason is reduced.

Solid Waste Program Manager Mark Bowers: That's correct.

Councilmember Lee: Okay, thank you.

Mayor Spitaleri: Did you understand that sir?

Member of the public Krikor Sarkissian: Yeah, but still doesn't make sense to me, its same garbage.

Mayor Spitaleri: Okay, thank you. Councilmember Swegles.

Councilmember Swegles: I might as well chime in seeing this is my topic. The other situation we have in mobile home communities is that we do not allow parking in the street at all. So there's no blockage of any kind for the garbage cans and that is one of the reasons they can pickup quicker, there not only closer together, there's no interference for the garbage trucks to go through and pickup the containers.

Member of the public Krikor Sarkissian: In my humble opinion, it does not make that much difference (unintelligible) you know, few seconds difference, that's no big deal, I see them the way they collect the garbage and the rate they go from house to house. It's the same thing, stop, automatic arm come, pickup, couple seconds is not going to make that much difference.

Mayor Spitaleri: Well, thank you sir.

Member of the public Krikor Sarkissian: Thank you.

Mayor Spitaleri: Next speaker is Ron Graf.

Member of the public Ron Graf: Hello, my name is Ron Graf and I'm here to talk about the solid waste rate increase. Price is going up, surprise, surprise, if I were to squawk about everything that went up in price, I may as well be a crow. But, I want to address the stated goal that the new solid waste rate structure will more closely tie garbage charges to the volume of garbage collected. And the new rate structure is multi-faceted and in a lot of cases it is closely tied to the amount of garbage collected. But, in my case, I found what do you want to call a loophole or an oversight that affects me and is kind of a contradiction to that stated goal. And I'm going to read from my letter of protest cause I'm not an elegant public speaker, but I can write fairly well. The new solid disposal rate is in some instances flawed. It effectively penalizes those who generate less trash and whom the City should be rewarding, yet rewards excessive trash generating practice and habits which the City should be discouraging. I use a thirty-five gallon trash container or currently thirty-two gallons, because by separating recycling glass, plastic, and newspaper in the provided recycle bin, I can reduce the remainder of my garbage into the smaller thirty-five gallon can. My neighbors on the other hand, choose not to recycle and simply place all trash recycle or not into their sixty-five gallon can. So, how does the new rate structure affect us in this case? First in return for my environment conscious recycling efforts, the City of Sunnyvale will penalize me by raising my solid waste rates by two dollars and nineteen cents per month. On the other hand, my neighbors who demonstrate no concern for what or how much trash they send to the landfills will be rewarded by the City of Sunnyvale with a rate reduction of two dollars and ten cents per month. The City of Sunnyvale is reducing my neighbor's rates for generating twice the volume of trash that I do. And at the same time, the City of Sunnyvale is forcing me who recycles and generates half the volume of trash, to subsidize my neighbor's larger trash can in a dollar amount near or equal to the discount the City is giving them. This is in direct contradiction to Sunnyvale's claim that the new rates quote, more closely tie garbage charges to the volume of garbage collected, close quote. If the City of Sunnyvale's goal is to reduce the volume of trash being sent to landfills, the charge for the larger container should go up and the charge for the smaller container should go down to encourage recycling. But the City has chosen to do the opposite. Please reevaluate the single family rate structure as it pertains to all the various container sizes to more accurately reflect all garbage volumes collected and to be fair to those who chose to conserve and can thereby suffice with the thirty-five gallon can.

Mayor Spitaleri: Thank you. Next person is, Ums sorry, Councilmember Moylan would like a question. Sorry.

Councilmember Moylan: I'd just wanta. No, no, I -

Mayor Spitaleri: No sorry.

Councilmember Moylan: I don't like to have these people stand at the lectern if I - I just wanted to ask if its okay for me to do a quick follow up question of staff in between speakers

Mayor Spitaleri: Sure.

Councilmember Moylan: It is.

Vice Mayor Hamilton: I have a question.

Councilmember Moylan: Oh, alright then, I'll wait.

Mayor Spitaleri: Speaker, would you please come back up.

Vice Mayor Hamilton: I just have a super quick question. Am I correct in understanding that you own, you don't have a City cart right now, you own your own trash can.

Member of the public Ron Graf: Yeah, right now I believe baseline is, I believe we supply our own thirty-two gallon can which will be thirty-five after the plan, and if you look at baseline right now, with the thirty-two gallon can, its twenty three dollars and twelve cents, and when it goes up to the thirty-five gallon cart, which when - you know - you factor in the difference in, it'll be a City supplied cart, when you factor in the difference in the wheel size, wheel well size the, it's essentially the same size. So for the same size, the rate will go up by two dollars and nineteen cents but for my neighbors who use a sixty-four gallon cart, its going from thirty-three dollars and there going to get a sixty-five gallon cart and its going to go down to thirty dollars and ninety cents, so I don't understand how my neighbor who can generate twice the trash is going to get a discount while I'm generating half the trash and mine is going up by about the same amount that his is going down.

Vice Mayor Hamilton: Alright, well that was my question, thank you.

Member of the public Ron Graf: Alright, thank you.

Mayor Spitaleri: Would you like to respond to that staff.

Director of Finance Mary Bradley: If I may, and then add a portion of the cost of you're - the baseline service going up is related to the fact that we will be providing a cart. You currently provide your own can, and the reason that we can keep the rates, and I know that five percent increase seems large, except as you point out, there's a lot of fuel cost and so on associated. We will be reducing one route, one garbage truck, and the way we're able to do that is to have everybody be automated so that everybody has to have a can that can be manu...- that can be automatedly pickup by the truck and therefore, allow us to be more efficient.

Member of the public Ron Graf: Okay, so -

Director of Finance Mary Bradley: So, a portion of your cost is (the member of the public started speaking).

Member of the public Ron Graf: (talking over) I figured that was what that was but right now the people that have the sixty-four gallon cans already have a City supplied garbage can so why - you know - so, I don't understand why theirs is going down by the same amount mine is going up. Alright. Thanks.

Mayor Spitaleri: Thank you. Councilmember Moylan did you have something (unintelligible)?

Councilmember Moylan: Oh, I just wanted to follow up on the impression that one category of users was subsidizing another because what I remember hearing from the study session is the whole reason for reevaluating this was to make sure that no category of users is subsidizing any other so it suggests to me, and tell me if I'm wrong, that if any category of users dropped, its because the study found that they were previously subsidizing the other categories and that was going away, is that correct.

Revenue Systems Supervisor Tim Kirby: That's correct, the rates reflect cost of service.

Councilmember Moylan: Okay.

Mayor Spitaleri: Next speaker is Kumaran Santhanam. And you're going to have to help me out here.

Member of the public Kumaran Santhanam: Hello Mr. Mayor, Vice Mayor, and Councilmembers. I'd just like to raise just a few -

Mayor Spitaleri: Excuse me, state your name for the record please.

Member of the public Kumaran Santhanam: Kumaran Santhanam. I'd like to, just to state a few objections that I had to this rate increase. As the gentleman previously just so eloquently put it, I'm actually in the exact same situation that he is, that's one of my points. We are actually on the baseline service with a thirty-two gallon can that I paid less than twenty bucks for a OSH and we fill it about three-fourths every week with a family of three. So, we're very judicious about the amount of trash that we throw out and with this new plan, it increases the rates by more than the equivalent of a can a year. So, its essentially, I'm paying an extra trash can per year instead of being able to use the twenty dollar can that I already bought. As we discussed just previously with the staff, I understand the need for automation but at the same time I look at this and why am I paying more to make their job easier. That sort of doesn't make sense because they're going to be able to collect that same thirty-five gallon can easier with more efficiency and less overhead and thus I'm paying two dollars more for that privilege which is just a little bit, doesn't make a whole lot of sense to me. The second issue I have with the proposed structure is the requirement to buy garbage tags at the City Hall or the grocery store. Not one of the neighbors, actually I'll get to my third point in a second. So, there's an inconvenience incurred by that. You know, maybe a preferable approach might have been an automatic billing where if you put out the can, it gets added to your bill. I spoke to some of our neighbors who - you know - I brought one of em along with me, but -

Unidentified member of the public: Representing Arlington Court.

Member of the public Kumaran Santhanam: So, so, I brought along - I talked with my neighbors and they really expressed a concern, especially some of the more elderly folk, that they will misplace the tags, they won't have them available at the time that's needed to put out the trash, so it seems this tagging is a burden that is being shifted unduly onto - you know - the, a private citizen. And the third issue I have, which I think perhaps is the most serious, is the wording of this letter, and I know it was not intentional, but this table here comes off as extremely disingenuous. The way that it is compared of the rates, and a previous gentleman had mentioned this as well, you don't compare apples to oranges, sixty-five gallon unlimited is not sixty-five gallon limited. It's not the same thing. And the wording here is, if you're a single family resident and currently subscribe to unlimited service and chose a sixty-five gallon cart, you will see savings of two dollars and ten cents a month. But just try putting one extra bag out, you've wiped out your savings for three months.

Unidentified member of the public: Yeah, so -

Member of the public Kumaran Santhanam: It's not really the same thing and on top of that,

so that's one issue, it's just, the table does not compare properly. And the second issue, several of my neighbors I spoke to, did not even understand that there was a six dollar surcharge, because that was buried in the fine print on the last page. So, I have to - Oh, was that the (unintelligible -talking over each other).

Mayor Spitaleri: (talking over each other) Your going to have to wrap up (unintelligible) in a couple seconds here and (unintelligible) some staff -

Member of the public Kumaran Santhanam: Oh sure, so, those are my three points and I encourage the Council to vote against this and do some more study on exactly how these costs are gonna affect the various classes of citizenry and how it can be done in a more equitable manner than -

Mayor Spitaleri: Right, thank you. Councilmember Swegles.

Member of the public Kumaran Santhanam: - than you plan.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, in regards to the tags, I think one of the things that was discussed at one of the study sessions was that a - without any way to identify the tag, any of your neighbors could put their extra garbage in front of you and then we have an ongoing battle, well, I didn't have that extra bag out there, so that's one of the main reasons for the tagging is due to that fact, so that someone can't just come down the street and may not even be in your neighborhood late at night and drop some bags in front of your house and then all of a sudden your wanting to know where they came from. So that was the main purpose behind the tagging.

Member of the public Kumaran Santhanam: One thing I might say to that, maybe there would be a way of just obtaining free tags from the City that have an ID number on them and then being billed after the fact for them, something we could print off the website or something which would always be available versus having to buy something for money and then potentially misplace it.

Councilmember Swegles: Well, unfortunately, everything costs. There's a cost to everything, including tags. So, I realize they didn't cost six dollars but that's part of the thing but we do have to recover. As you know, the City of Sunnyvale tries to recover our cost in regards to these items.

Mayor Spitaleri: Director of Finance, did you have a comment?

Director of Finance Mary Bradley: Yes, I just would - wanted to tag on to what Councilmember Swegles says - the whole pricing is based on (unintelligible) of policy which says that each, the cost of services is divided, is handed out to each person according to the cost. And we did have a fairly, a quite extensive cost of service study done that looked at every piece, every type of service, and it was concluded actually that the cost of the baseline service was being subsidized by the other rate payers. So, what you see in part is the reflection that the thirty-five gallon was in fact subsidized previously, I think Councilmember Moylan alluded to that too. And also, there is certain service provided as part of all of this in addition to your trash pickup which Mark wants to talk about.

Solid Waste Program Manager Mark Bowers: If I had my way it would not be called garbage rate or refuse collection fee, it would be called a recycling and solid waste management and a whole bunch of other stuff fee, because - you know - people are focusing on, while the service I'm getting is based on this amount of garbage that I generate, which may be a small amount or a large amount. And really what the charges go to pay for are yard waste service which costs us money to collect and compost, and our recycling service which costs us money to collect and recycle. We do recover on the recycling side a couple of million dollars a year in revenue that helps keep the cost of service down, but there are other solid waste management services, household hazardous waste disposal events, the post closure maintenance of the landfill and so forth. So, it is much more than, you're paying for much more than simply the guy coming by and dumping your trash can, you're paying for all three carts and for all those other ancillary services that are either desired or mandated by the state that we provide.

Director of Finance Mary Bradley: Regardless of how much garbage you put out.

Solid Waste Program Manager Mark Bowers: Regardless of how much garbage you put out. We could have someone produce no garbage and we'd still need to charge them something for the other services.

Mayor Spitaleri: Councilmember Howe.

Councilmember Howe: Thank you. Couple questions of staff. One of them is - and I understand if you want them to sit down but they may not want to - Proposition 218, is that the one that requires the City to do these various studies that says this is what it costs and you charge according to that plan, is that?

Revenue Systems Supervisor Tim Kirby: That's one of the laws that requires cost of service, yes, and utilities, public utilities.

Councilmember Howe: And so the City of Sunnyvale did a study and found out that the cans that were at the life line or whatever is the correct rate, the lowest rate, was not paying its fair share for that actual collection. Is that correct?

Revenue Systems Supervisor Tim Kirby: Correct.

Councilmember Howe: Workmen's compensation. The automated containers are expected to decrease workmen's compensation claims from the vendor, is that?

Solid Waste Program Manager Mark Bowers: That would be one of the desired outcomes of this. When the consultant study was done, a different consultant study several years ago, around the time of the contract extension, that Specialty was given, they did route riding and looked at how the routes were being performed, and they came back and said the drivers are getting out of the truck way too much. In other words, they were hitting houses that had thirty-three gallon cans that had to be manually collected. They were hitting houses that had extra bags next to the toter for garbage that had to be collected. Each time, not only does it slow the route down, but the driver is going down and up steps several hundred times a day in some cases and that can add to repetitive stress injuries and workers' compensation claims, so one of the desired outcomes of going to the automated and trying to get everybody to keep their stuff in the cart is to reduce the worker injuries, extend those workers work careers, and reduce the workers' compensation costs.

Councilmember Howe: And the last question is - and let's see if I was paying attention in the study session - when you limit the amount of refuse that is picked up in that black can or whatever's the correct color, what happens to the resulting recycling rates.

Solid Waste Program Manager Mark Bowers: We expect to see increases in the use of the recycling programs and the yard waste programs.

Councilmember Howe: Great. Thank you very much.

Mayor Spitaleri: Ah, city manager.

City Manager Amy Chan: Thank you Mr. Mayor. Just want to add to staff's comments about the current proposed rates. The director earlier mentioned that the current proposed rate incorporate some efficiency gain in the tune of over a million dollars. So, if the efficiency were not incorporated, the Council would be looking at a much higher rate increase in all categories assuming the cost of service study were to be implemented without the cost efficiency. So, the rate before you tonight does incorporate the anticipated recycling and yard waste efficiency as well as taking advantage of the route efficiencies. So, I just want to make sure Council understands that.

Mayor Spitaleri: Alright. Thank you. Okay. Councilmember Lee.

Councilmember Lee: If I may Mr. Mayor, a question for staff following up the question about these tags. This is a new program that we haven't done and sold before in Sunnyvale and just like any good programs or new programs, certainly, bad things can happen. One question I have is if there is theft of tags because (unintelligible) extra bags, there's really very hard to have any type of true enforcement other than catching the person in the act of stealing these tags of the neighbors or just anyone roaming by.

Solid Waste Program Manager Mark Bowers: The tags we're going to produce have a strong adhesive on the back so if they're put on a plastic garbage bag as we anticipate, they wouldn't be able to be stolen unless the thief also wanted to take the garbage. So, we don't expect that to be a problem.

Councilmember Lee: Okay, and then the other question, of course for the rest of us who do not have a tag and just (unintelligible) bags outside, they would just be left there and won't be picked up, is that the idea?

Solid Waste Program Manager Mark Bowers: That is the plan, yes.

Councilmember Lee: Okay, thank you.

Mayor Spitaleri: Thank you. Next speaker is

Unidentified member of the public: - say something.

Mayor Spitaleri: Do you have a card in? You need to put a card in.

Unidentified member of the public: Okay.

Mayor Spitaleri: Sharlene Liu.

Member of the public Sharlene Liu: Hello Councilmembers. My name is Sharlene Liu and I live in south Sunnyvale. I want to talk about a topic that this gentleman here brought up, about environmental consciousness. So, when I first moved to Sunnyvale six years ago, I was rather dismayed to see that the garbage rates allowed unlimited garbage. I just couldn't really believe that Sunnyvale would allow unlimited garbage and not encourage people to think about what they're throwing away. So, this new rate proposal is a slight improvement toward that in making people think a little. But, it's only a six dollar difference approximately between a thirty-five gallon container and practically double that, a sixty-five gallon container, and then adding another, tripling that, to a ninety-six gallon container. I don't think a six dollar difference in these container sizes is going to encourage people to reduce their garbage. So, I understand that the cost reflect the cost of operation, which I find to be very short sighted. I think we need to look broader and longer term toward the environmental costs of garbage and garbage filling landfill. So, which is not very measurable, it's not very concrete, you don't know what the costs of that is but I believe, as many people do believe, that it's going to be substantial. So the six dollar difference in practically doubling the garbage and tripling the garbage is not a true reflection of the environmental costs. So, what I would be happy with personally is if you rewarded, as the gentlemen a couple of gentlemen before me said, is reward people for trying to reduce their garbage. So, if you propose a twenty-gallon container for example, I think there would be a fair number of residents who could use that, eventually use it maybe to learn to reduce their waste to twenty gallons, and you could reduce the rates more for the lower garbage consumers and raise the rates more for the higher garbage consumers - oh, I shouldn't say consumers but garbage generators. To the tune of, I would even propose, as I have in my written proposal, twenty dollar difference between the different garbage container sizes. I think that would be - that would - a twenty dollar difference would definitely cause people to stop and think, and think about how much garbage they are throwing away. Cause at the current rate, its not causing people to stop and think at all and I think that's irresponsible of - you know - the City of Sunnyvale as a whole and Sunnyvale is concerned about environment so lets bring this concern into the garbage rate structure as well. And personally, I want to say that I have a family of four, two small children, and me and my husband and we live, *(electronic three minute speaker timer beeped)*- I just want to make one last, we live comfortably and we live well and we generate, we recycle, and we also compost. It doesn't take too much time out of our busy lives, and we generate less than thirteen gallons of garbage a week or less than thirteen gallons. And I think plenty of people who, I see plenty of people who could adopt our lifestyle, really its not even much of a lifestyle change, it just takes

Mayor Spitaleri: I need you to wrap it up.

Member of the public Sharlene Liu: (unintelligible)

Mayor Spitaleri: Okay thank very much. Thank you. Councilmember Lee.

Councilmember Lee: Actually, I have another question. you bring up some good points but I guess it goes back to the issue of the actual cost of service versus a complete different goal in this case, is the incentive built in to encourage people to generate less waste, which is of course is a very important goal in the long run for sustainability for all of us here. We focus on this report here today on basically recovery of cost. If we would like to use the encouragement of reduction of cost to those who generate very little trash, and vice versa for those who generate a lot, would that be something that we would need a separate study

session city manager to go forward as a City policy in the future?

City Manager Amy Chan: I would suggest Council look at the rate next year and look at what the impact is, what the goal is as a study issue. Certainly, you can consciously subsidize one category to another to achieve a goal, but then Council should have a established policy goal first and then direct staff to implement that goal via next year's rate setting.

Councilmember Lee: Right, because the idea of these fees is they has to be cost recovery, which means we cannot make a dollar out of this and we should not supposed to lose money out of it, but the thing is by having these other motive to encourage people to generate less trash, we certainly have could have one category subsidize the other.

City Manager Amy Chan: Sure, the reason I'm saying it should be a study is that staff at the same time can look at legal implication of doing that.

Councilmember Lee: (talking over) Right, (unintelligible)

City Manager Amy Chan: As I mentioned earlier, we have prop -

Councilmember Lee: 218

City Manager Amy Chan: - 218 and utility rate setting laws that we do need to comply so the study would afford staff the opportunity to look at all of those and come back to Council with a recommendation.

Councilmember Lee: Okay, after a while I'd like to propose that. Thank you.

Member of the public Sharlene Liu: Sorry, I wanted to mention my neighbor here, also supports my views and a few signatures that I got (*handed paper to city clerk*).

Mayor Spitaleri: Thank you very much. Next person is Judi Nickey.

Member of the public Judi Nickey: My name is Judi Nickey. Mr. Mayor and Councilmembers and I have two things. One, is there a display somewhere around here of the different size of garbage cans, that's -

Mayor Spitaleri: Staff can respond to that.

Member of the public Judi Nickey: - like, in this building area.

Revenue Systems Supervisor Tim Kirby: There's a display in the annex lobby where the utility billing payments are received, we have the carts on display there.

Member of the public Judi Nickey: Oh well good, because that's one thing, I'm not very good with numbers and so when I was reading this I'm going well I'm not sure which one I really should be picking cause I haven't seen how they're shaped and so forth. The second thing is I was happy to see they're going to pick things up at least twice a year but then was very disappointed when it was so limited. My idea when I first heard about the fact that they would pick things up twice a year, I said, well, when I have something that I really need to get rid of and I call and ask for a pickup, I was going to call my neighbors and say, "Hey, I'm

gong to have a pickup and bring your stuff over” and it will be like one trip for the whole block, and we were going to have like a block party and now that’s not going to happen. But, I don’t know maybe they could - you know - at some point in time, consider like a group neighborhood thing where they could do something, so it might save gas if they could all consolidate and do it all on one day, rather than each one doing it on a different day within the neighborhood or something.

Mayor Spitaleri: We have a staff response.

Solid Waste Program Manager Mark Bowers: Thank you mayor. I think residents will be surprised at how much two cubic yards is. It’s really quite a large pile and we’re planning to be very flexible at how we administer that. The suggestion to combine with the neighbors I think is a great one and if you can get your neighbor to call the same week, say you’re a Tuesday, pickup, and have the truck come by two adjacent houses on a Tuesday, would be a great efficiency for the garbage company. I’m sure they would appreciate that. And you could keep your pile in front of your house and they could keep their pile in front of their house.

Member of the public Judi Nickey: Thank you very much.

Mayor Spitaleri: Thank you. Vice Mayor Hamilton. Did you have a question?

Vice Mayor Hamilton: Well

Mayor Spitaleri: Judi -

Vice Mayor Hamilton: I’m sure Judi will be interested in the answer but she doesn’t need to stand at the podium.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: I’m aware that there is, or I’ve heard of a program that you can have dumpsters brought to neighborhoods for the neighborhood clean ups. Can you talk a little about that cause I know my neighborhood has done it like once a year for the past three or four years?

Solid Waste Program Manager Mark Bowers: That’s a service that’s provided through the neighborhood preservation division

Vice Mayor Hamilton: Uh hum.

Solid Waste Program Manager Mark Bowers: for neighborhoods that have organized neighborhood associations. That’s one of the benefits that the City provides.

Vice Mayor Hamilton: (talking over) (unintelligible).

Solid Waste Program Manager Mark Bowers: So, contact the neighborhood preservation division to make arrangements or to organize a neighborhood association.

Vice Mayor Hamilton: Yeah, cause I know that they actually will come and put a dumpster there for the weekend and all the neighbors can put whatever they want in it as long as its

legal to be dumped and that's been a really great program.

Mayor Spitaleri: Harriet Rowe

Member of the public Harriet Rowe: Harriet Rowe citizen. My only concern with also the limited amount of trash you can put out on the two special pickups that you can have, and it's been suggested that the amount of trash we're allowed in the cubic feet is a great deal but I'm like Judi, I don't know how to visualize that in feet, depth, height, and length. I thought he said six by three by three.

Solid Waste Program Manager Mark Bowers: If you envision the podium here that the three of us are sitting behind plus the three of us, it would be similar, we would resemble about two cubic yards.

Director of Finance Mary Bradley: Wait a minute.

Solid Waste Program Manager Mark Bowers: Just very roughly.

Member of the public Harriet Rowe: Just where those two are, where Mary and you know, where they are sitting.

Mayor Spitaleri: Those three.

Member of the public Harriet Rowe: Well, that's a little bit better but - ah, because I'm one of these that also uses all of the carts to (unintelligible) and I try to cut down the amount of trash and if I have extra yard waste, I don't even put it out in an extra bag, I just wait till the next week, put it in a pile and put it in the next time. So, that was a concern because, I thought, gee, if I had another house cleaning like I did recently, and this is - I want to ask you if I'm reading this correctly - I would have to pay somewhere around ninety-two dollars for the truck to come out for special trash pickup if it's more than the (unintelligible) of the amount allowed and if you had something heavy, you'd have to have two men on that truck, so it would be more like one-hundred and fifty dollars. Did I read that chart correctly?

Mayor Spitaleri: Staff respond.

Revenue Systems Supervisor Tim Kirby: For special pickups beyond the two times a year clean up, we do offer that for a fee and I believe she is about correct cause it usually run between one hundred and one hundred and fifty dollars.

Member of the public Harriet Rowe: I'm not talking about an additional extra pickup, I'm talking about of the two pickups I'm allowed per year. Alright, if it's more than the amount that we are allowed, then I would have to actually pay for a truck to come out and get that much trash.

Revenue Systems Supervisor Tim Kirby: We would work with the customer to work in the free portion and then only charge for the additional yardage.

Member of the public Harriet Rowe: Okay, thank you. I think that's fair enough. And one last thing and that is if the tag is ripped off and put on another trash bag, will the trash people who come along and see that a tag has been attached say with scotch tape to a new bag, will they refuse to pick that up.

Mayor Spitaleri: I don't know.

Member of the public Harriet Rowe: Well, I'll bet you that will happen. Thank you.

Mayor Spitaleri: We are going to nail those things right to the can so you don't have to worry about it. Okay, thank you. I have no further cards on - oh, and what was your name sir. Okay. I don't have it but I might have (unintelligible) but come on up, come on up.

Member of the public Carey Trost: I turned it in to the gentleman with the blue shirt back there, before the meeting.

Mayor Spitaleri: Blue shirt back there, oh well, he doesn't count. There you go. Okay. This one? I already called that. I thought I called this earlier. Carey Trost.

Member of the public Carey Trost: No

Mayor Spitaleri: No, I'm sorry, my mistake.

Member of the public Carey Trost: (unintelligible), little guy.

Mayor Spitaleri: You're on.

Member of the public Carey Trost: My name is Carey Trost. A Sunnyvale resident for about nine years. I don't want to repeat too much of what has been said tonight already, I mean rate increases happen, are necessary, they happen, they're acceptable. Staff says about five and a half percent is what was needed, but the rate increases for almost everybody are closer to ten percent. People currently on the thirty-two gallon will go up about nine percent if they stay on the thirty-five, people on the ninety-six unlimited will go up about ten percent if they stay at ninety-six. The only scenario where anybody's rate would go down is if their currently on the unlimited and they move to the sixty-four gallon and put out four or fewer extra bags a year, not a week, a year. That's the only time when it goes down. So with all these ten percent increases it's very hard to see how this is going to average to five. And as Councilmember Lee said this is not about the City making money on this, this is to cover cost. This seems extremely excessive for that. And that would be if the service level that they were providing was exactly the same, it would be at ten percent, it would that ten percent cost increase. With the drastically less amount of garbage they're going to be picking up for that money, that should drive their cost down even further, because they're collecting less waste, they're burying less waste in the landfill, need fewer landfills, all that. You know, seventy-five percent reduction in extra clean up days as well - in addition to the infinite reduction in amount being collected on each of those remaining clean up days. But then the other issue I want to bring up that has not been mentioned at all is that like many homes in Sunnyvale, I have a very large yucca tree in my front yard. It requires significant trimming every year, its green and brown and grows in the yard, I believe its yard waste. But the City has told me that they cannot pick it up as yard waste and that I must throw it in the regular garbage because they lack the proper equipment to be able to process it properly. I've never complained because I pay for unlimited garbage service, it gets picked up as part of my garbage. As part of this new program, I would have to start paying six dollars a can to have my yard waste taken away, which I already pay for as part of my unlimited yard waste so if I pay my share on my unlimited yard waste, I would expect the City to collect it as they are supposed to.

Mayor Spitaleri: You have a clarification I believe. Staff.

Solid Waste Program Manager Mark Bowers: I was looking at the proportion of cart sizes but did I understand the comment to be that we would be charging for yard waste removal.

Member of the public Carey Trost: Yes.

Solid Waste Program Manager Mark Bowers: Oh, yucca.

Member of the public Carey Trost: I understand it's supposed to be free but I've been told the yucca tree cannot, will not, be collected as yard waste.

Solid Waste Program Manager Mark Bowers: That's right.

Member of the public Carey Trost: I've got notes from the collectors saying they won't take it and that I'm required to put it in my regular garbage.

Solid Waste Program Manager Mark Bowers: Yes, we're not allowed to put yucca into the composting program cause of the fibrous nature, it jams up the machinery. So, yucca, palm fronds, and a few ivy's that are long stringy batches, do have to go in the garbage.

Member of the public Carey Trost: So -

Solid Waste Program Manager Mark Bowers: And so we haven't - there's no change to yard waste program. We have not taken that material in the past and will not take it in the future. It's the same program as far as that's concerned.

Member of the public Carey Trost: So, I have to pay six dollars a can to remove my yucca.

Solid Waste Program Manager Mark Bowers: If you don't - if you aren't able to fit it into your normal garbage container, yes.

Member of the public Carey Trost: So, I get it, I just feel that is completely unfair considering it is green, it is brown, it grows in the yard. It seems to me that's an extension of yard waste. It's not my fault that the City lacks the proper equipment.

Mayor Spitaleri: Okay. Thank you sir.

Solid Waste Program Manager Mark Bowers: We also were - it was an interesting point raised about the proportion of carts - and the real wildcard here in terms of how this happens, is that once the rates are approved, we will tell the residents what the rates are and ask them to select their cart sizes and at that point we will find out what, how close our assumptions in the rate model are to what people actually chose given the financial incentives we're looking at. So, the rate model assumes that forty percent of customers will chose the thirty-five gallon cart, which is very large increase. We see a lot of people moving from the unlimited rate down to the thirty-five because now they'll now be able to capture a twelve or thirteen dollar savings as opposed to the current savings, which is around I think eight dollars. We see a similar move from the unlimited to the sixty-five's and so when all is said and done - and this is not just guess work, its based on looking at other cities that have similar rate structures and seeking how their customers sort out over time in the

different sizes. We expect to see forty percent of the residents in the smallest cart, fifty percent in the middle size cart and ten percent in the largest cart. So based on those numbers and we didn't plan it in light of the testimony, but it happens to be exactly fifty percent that will go up and fifty percent that will go down in cost, if you look at the – nah, that's not actually quite correct but – fifty percent will end up in the sixty-five gallon cart size and that will all be people seeing a decrease

Member of the public Carey Trost: Except for those that put more than four additional bags per year.

Solid Waste Program Manager Mark Bowers: In which you wouldn't - you know - you'd make any kind of choice whether to decide to pay extra bag charges or go to the ninety-five gallon cart size. Now, next year we will know what people, what carts people selected, and we can go back into the model, change those and come back to you with rates that reflect – if there's any significant variance – rates that reflect what cart sizes people did chose.

Member of the public Carey Trost: Right, and all that's based on everyone – ah providing the same level of service, but since the level of service is severely decreased from what it was before, I would say that math really doesn't make sense.

Mayor Spitaleri: Okay, thank you. Councilmember Whittum.

Councilmember Whittum: Just a real quick. Do you have an idea how much extra waste your yucca tree, maybe that's a hard question.

Member of the public Carey Trost: It's a very hard question to, I mean it's huge. When I trim it, it will usually be four or five cans, a thirty-two gallon cans.

Councilmember Whittum: Okay and how often do you trim it?

Member of the public Carey Trost: Two to three times a year.

Mayor Spitaleri: Okay, thank you very much. Do we have (unintelligible). Do you have a card sir?

Unidentified member of the public: Uh, no.

Mayor Spitaleri: Do you want to speak?

Unidentified member of the public: Yes, (unintelligible)

Mayor Spitaleri: Why don't you come on up, get his name, (unintelligible) a card, and that will be the last card for this evening on this issue.

Member of the public (No speaker card): My name is Ralph Kenton. I have been a Sunnyvale resident, enjoying it for thirty-seven years, and I started recycling before you folks even thought about it, at the Fremont High School. Way back when.

Mayor Spitaleri: You must have been real young then.

Member of the public Ralph Kenton: Those big - I'm real young. I commend the actions that

you're taking in trying to do the right thing; however, I have some global questions, I'm very confused. The only things I've seen in writing in my very full box of mail everyday, and I look at everything, has been this document, the green one and this one letter which introduced the meeting tonight. I am very confused, and I am sure other people are too, about the semantics being used in these presentations and in this meeting. Because my carts which are large and unlimited service is green, which says yard waste, my black one says garbage and my blue and green one says recycle – which I have been using of course for the containers and newspapers. I am very confused as to what's changing in terms of the containers, how many new containers I'm going to get, why am I going to get any when all my three are in perfect condition and why should I have to pay for new ones when these work fine with the automated machinery. Secondly, I'm wondering if there's a report which challenges the increase in costs and segregates where those costs are coming from. Are they coming from increased rates from the Specialty Garbage Company or they increased rates at the SMaRT Station? If they're coming from Specialty, I'm really concerned because I've heard tonight and I felt myself that the Specialty Garbage Company has been worried a lot about themselves and about their customers. They fly through the neighborhood, screech up to, and tear up the pavement, throw stuff all over the place, don't get out the truck and clean it up, are looking like they're heading for the bar they're rushing so fast to get home, or watch the baseball game, or something, and their services have not been that good so they're certainly not customer orientated. So, where are the costs coming from? Are they increasing their rates or where is this cost coming from?

Mayor Spitaleri: Ah, staff.

Solid Waste Program Manager Mark Bowers: The costs that you see are those in the City's adopted budget and are documented in the budget transmittal letter as to the various changes and as you know we budget over twenty years so we are looking at how things will project out over the twenty year period. There is an increase - there has been increase - inflationary increases in the cost of fuel, cost of labor, lately the price of steel which is driving the price of trucks up. We aren't seeing any extraordinary changes. The SMaRT station contract is more expensive than the previous contract, partly due to the enhanced labor features that the new contract has and in general, it's a combination of all of the normal issues that we have been discussing with you throughout the budget process.

Mayor Spitaleri: Thank you.

Member of the public Ralph Kenton: Do I understand that we're only going to have two trucks going by now once a week. Two trucks going by instead of three.

Solid Waste Program Manager Mark Bowers: If I could just briefly describe what we're changing and what we're not changing. We're not changing the yard trimmings program, we're not changing the recycling program, except to add mixed paper to the newspaper side of the cart, and we're on the garbage side, adding the carts for baseline customers and changing the rate structure or proposing tonight to change the rate structure to three rates instead of two and eliminating the unlimited rate.

Member of the public Ralph Kenton: Alright, so there will still be three trucks. One will be for the yard trimmings which is the green bucket called yard waste, one will be the black toter, which is big, and it's called garbage, and one will be the recycle toter which is two colors. So, will have three toters, three trucks, that isn't changing, is that correct? So, basically, what we're really just talking about in terms of rates and costs is the garbage, the wet

garbage of it all. Is that correct? There's no change in anything to do with

Mayor Spitaleri: I'm going to cut this off. Yeah, staff did you want to respond real quick. No, okay, thank you. Vice Mayor Hamilton.

Vice Mayor Hamilton: As staff mentioned earlier, the price it covers, covers a whole lot of things, it covers the cost of doing yard waste, the cost of recyclables. I think one of the things that I think - earlier this year or late last year - we had bidding for the new contract and one of the major points of contention was that the people out there who go through your garbage to pull out the recyclables were not getting compensated anywhere close to a living wage and we actually had people come in here saying we would prefer to pay these people more because they perform an important service for us. And that I think is what the labor cost that Mark referred to, and that is why the SMaRT station or the Specialty driver's contract is more, because we are trying to make sure that the employees who do the job for us are getting taken care of, not just the ones who drive the trucks but the ones who work out at the SMaRT station.

Mayor Spitaleri: Okay, thank you.

Member of the public Ralph Kenton: Okay, so the final question is my waste pickup for garden waste will be the same, my recycle will be the same and only the garbage, the wet garbage, which is very minimal in our house, would be change in rate depending on the toter size. And I have a question for the - another person who said we need to reduce the amount of waste that we produce.

Mayor Spitaleri: Yeah.

Member of the public Ralph Kenton: If you call the waste the garbage kind of waste, that means we have to eat less, I don't understand.

Mayor Spitaleri: Well, thank you sir, your times up. And I want to thank all the folks that came tonight and put in their cards and expressed their interest and raised some good points for us to take a look at. And I'll close the public hearing. Councilmember Whittum.

Councilmember Whittum: Thank you, I just want to go over one number with staff if I could.

Mayor Spitaleri: Sure (unintelligible)

Councilmember Whittum: The gentleman with the yucca tree, I hadn't really thought about his situation before and just doing the numbers four to five cans, two to three times per year, fifteen cans, six bucks lets say if he's putting it in a bag, ninety - sounds like he might be paying ninety bucks a year, basically his cost are going to go up about thirty percent - is that more or less what's going to happen to folks with the non - you know - the trimmings you can't - you know - you have to put in the garbage.

Solid Waste Program Manager Mark Bowers: If I was in that situation, I would use my two extra pickups a year for the echo waste, and/or haul it myself out to the SMaRT station on the extra dump weekends. We'll still have four extra dump weekends every year, two in the spring and two in the fall.

Councilmember Whittum: Thank you.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: I just have a quick question for staff.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: We mentioned that the fact the mixed paper is going to be added to the recycling side of things. I'm wondering if – what if any – and this may be a study issue and it's escaping me – food waste for the yard waste, like kitchen food waste. Is that going to be added at some point to the yard waste bins for composting or not?

Solid Waste Program Manager Mark Bowers: We don't have any current plans to do that. We looked at that possibility at a staff level, a real cursory look about five years ago and we were shocked at how much it would cost, how much it would add to our processing cost and dropped it like a hot potato at that point. However, we do have a study issue for 2008 on zero waste and so we will be discussing that in a general policy level way, when we bring back that study issue for you.

Vice Mayor Hamilton: Do you have any idea when that study issue is coming back?

Solid Waste Program Manager Mark Bowers: It's scheduled to come on - in December 2008.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, I'm ready for a motion if your ready mayor.

Mayor Spitaleri: I'm ready. Accept the motion.

Councilmember Swegles: I will go with staff's alternative number one – adopt the attached resolution adjusting the solid waste rates.

Mayor Spitaleri: Is there a second? Council - Vice Mayor Hamilton

Vice Mayor Hamilton: I'll second.

Mayor Spitaleri: Okay, there's been a motion, second. Any further discussion or questions? Seeing none, please vote. Councilmember Lee, did you have a question on the?

Councilmember Lee: (unintelligible).

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Yes, I would like to propose the future study session – I mean study issues, excuse me – regarding policy of whether or not we can adopt something that would encourage the less generation of waste and have that reflected on our future rates – solid waste.

Mayor Spitaleri: City manager.

City Manager Amy Chan: Thank you Mr. Mayor. Under your new process -

Mayor Spitaleri: I was just going to remind the Councilmember.

City Manager Amy Chan: Thank you.

Mayor Spitaleri: That under our new process in order to forward a study session, you need two other Councilmembers to sponsor that with you.

Councilmember Moylan: Point of order Mr. Mayor. You don't need them right at the moment.

Mayor Spitaleri: Oh.

Councilmember Moylan: If you don't get them right away, then it goes on one of the study session that were proposed to be multiple times a year and at that point, anyone who wanted to sponsor it, could.

Mayor Spitaleri: Okay.

Councilmember Moylan: That was my understanding of what we did last time.

Mayor Spitaleri: City manager, you have something to say?

City Manager Amy Chan: I, I'm going to ask the assistant city manager to clarify when the study issue paper will be prepared and when the ideas will be generated. Thank you.

Assistant City Manager Robert Walker: Thank you city manager. Staff's current understanding is that staff would not prepare a study issue paper until there were three councilmembers that proposed or adopted the- sponsored the study issue. As Councilmember Moylan indicated, this evening you don't necessarily need to adopt the study issue, what we would do is add it to a list, simply an ongoing list, bring it to the study session, at which time we would see whether there were the three that wanted to adopt it or not. But we would not have a study issue paper developed until the three.

Mayor Spitaleri: Okay, Councilmember Swegles.

Councilmember Swegles: Yeah, I'll be the second.

Mayor Spitaleri: Okay, motion to second.

Councilmember Swegles: No. The second, no

Mayor Spitaleri: (talking over) No motion to second. Okay. Study issue sponsor, so you wanted to co-sponsor that. Okay. Okay, thank you. No more?

***3 RTC 08-231 Selection of Community Members to Serve on Interview Panels for
 (Continued) New Sunnyvale City Manager**

Mayor Spitaleri: Okay. I'd like to now return to item number three, I believe. And um, the director of human resources, you have a report for us. Thank you, holly moses. Okay. Councilmember Swegles.

Councilmember Swegles: Yeah, thank you Erwin for giving us this but correct me if I'm wrong - I thought that we agreed if a candidate had four votes they'd be on.

Director of Human Services Erwin Young: We have - just so that I can summarize – we have the resident community panel is fixed – we have eight members for that – we have four – we have a tie with four people, so we would actually have nine business panel members, and so we have three choices basically. We can say we can stay with five; we can break the tie by voting amongst the four of those, or we can say that we will have nine business representatives on that panel so that's how we can -

Councilmember Swegles: Okay.

Director of Human Services Erwin Young: - handle that situation -

Mayor Spitaleri: Oh excuse me, Vice Mayor Hamilton.

Vice Mayor Hamilton: Yeah, I guess I'm confused because I see there is one person on the business panel that only got three votes and -

Mayor Spitaleri: I don't know.

Director of Human Services Erwin Young: So, they're not on.

Vice Mayor Hamilton: Okay, I guess I'm having –

Mayor Spitaleri: Read the bottom -

Director of Human Services Erwin Young: Go to the far right column -

Vice Mayor Hamilton: (talking over) (unintelligible) read it -

Director of Human Services Erwin Young: And if they have a one, then those people are on.

Vice Mayor Hamilton: I see. Okay.

Director of Human Services Erwin Young: so that's a total of five. Okay.

Vice Mayor Hamilton: Alright.

Director of Human Services Erwin Young: And then that's the total number of votes so that we have four - we have four people that have four votes.

Vice Mayor Hamilton: Okay. Alright. Thanks.

Director of Human Services Erwin Young: So as I should say, we could either leave it at five – the panel at five; we could break that tie, or we could just go with nine – we could

say all the people with four votes are included in the panel and we could have nine members of the panel, which would be perfectly fine.

Mayor Spitaleri: Councilmember Moylan.

Councilmember Moylan: Yeah, my understanding before we came in is that we would break ties, although its true, since we have a minimum of five we have the option of not putting any of them on. I would personally request that we break that tie.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Yes, I think – I'm looking at my tally here, I think one of my votes got missing. Oh, I see, yeah, it's in the other category. I guess, here's the question: when people in two separate categories – do you add their numbers up or do they just got broken up because (unintelligible) break them up. Looks like then they of course would not have enough vote. That's the question I have. For example, those who have the c and b, and b and c – for example – like say Howard Chuck as example, you have four votes - right - on the red side and then he also got two votes on the blue side, so if you add all those up you actually have six votes –

Councilmember Moylan: No, no, no, no.

Councilmember Lee: Am I right, or?

Vice Mayor Hamilton: No, no. What we decided to do was you vote for one or the other and that was the danger of being eligible for both. Now what we did decide to do also was if you got four votes or above, you were supposed to be on a panel. So now that we have a four way tie with four votes for the community panel, we need to find a way to break the tie.

Councilmember Moylan: And you were allowed to vote for the same person for both panels.

Vice Mayor Hamilton: Yeah.

Councilmember Moylan: You're allowed to use one of your eight votes for a person for the business panel and one of your eight votes for the other one for the community panel.

Vice Mayor Hamilton: So technically –

Councilmember Moylan: (talking over) – if you wanted to.

Mayor Spitaleri: Let me ah –

Vice Mayor Hamilton: (unintelligible)

Mayor Spitaleri: If you don't mind (unintelligible), let me recognize some of the lights up here so we can get, so we can, so we (unintelligible) discussion going. Alright, Councilmember Whittum.

Councilmember Whittum: Mr. Mayor, I - maybe its not in order yet, but I was going to

suggest just a motion to accept all of the business members that got four votes and to have a nine - nine member panel, just to cut right through it. So that would be my motion if there's any interest in the second.

Councilmember Swegles: I'll second that.

Mayor Spitaleri: Councilmember Swegles, is that what you'd like (unintelligible). Okay.
Vice Mayor Hamilton.

Vice Mayor Hamilton: Well, in response to the motion, one of the things that we discussed as the subcommittee was that the panels really should not be more than eight people – that that was a really large panel that would be - even that was kinda large for a candidate to be – I mean you've got these candidates coming through and they're sitting in a whole room full of people and the thing that we envisioned was that you would break the tie, so, you know, there's a couple of ways you could do it. You could either revote among those four people – give people three votes each – and those four and let them pick three of the four. I suppose you could also count up - that's what I would suggest, is you basically take those four, you pick three of the four -

Councilmember Swegles: Ah, actually, we have a motion on the floor and second.

Vice Mayor Hamilton: Well then, I'm saying why I'm not going to support it.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: Because the - you know - Bill Avery was saying really eight is pretty much the maximum you should have on the panel. More than that is really unwieldy.

Mayor Spitaleri: Okay. Councilmember Moylan.

Councilmember Moylan: Yeah, I will also speak against this motion. We – reflecting the applicant pool this business panel is very, very small business heavy. It's completely dominated by small business. As far as I'm aware the only large business representative who even applied, is Kerry Haywood. If we go for the full nine, it will be essentially – we'll get Kerry on there but it will be a small business club. I think that going up to nine, the only purpose for doing that is to avoid us having to make a ranking decision the way we originally planned that we were going to do it. I think that blowing that panel up to nine by just adding more and more and more small business people is not going to help it. I think we really need to look at and reflect which type of business each of those four people left is reflecting, and we should vote for three of them.

Mayor Spitaleri: If I may, I'm not sure which one to go. I'm not necessarily concerned about how many small business we have or large business. Majority of our businesses in town are small businesses. I would think I would go with the subcommittee's recommendation on how we would resolve this – if that's breaking the tie – I think that's where I'll go with that. Thank you. Anyone else want to speak on that. Any other questions. Please vote on the motion. Get the machine to work and I'll be alright.

City Clerk Gail Borkowski: Motion fails four to three with Councilmember Moylan, Councilmember Howe, Mayor Spitaleri and Vice Mayor Hamilton dissenting.

Mayor Spitaleri: Okay. Now subcommittee. Councilmember Howe.

Councilmember Howe: I move that we accept the five and revote on the other four and the highest out of those three out of the four will be put on the panel for business.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: I second that and I have a question for Erwin if he has a second round of ballots.

Director of Human Services Erwin Young: (unintelligible).

Vice Mayor Hamilton: If this motion passes what would you do with just – only vote for those four people – cross everybody else on the thing.

Mayor Spitaleri: Right. Okay. Councilmember Moylan.

Councilmember Moylan: Friendly amendment that we also acknowledge that we have filled the citizen panel with the eight people there at the same time.

Mayor Spitaleri: Okay.

Councilmember Howe: That would be fine.

Mayor Spitaleri: Okay.

Councilmember Howe: Motions -

Mayor Spitaleri: Okay, any -

Councilmember Howe: - amended

Mayor Spitaleri: - further questions, discussions? Please vote. Okay.

City Clerk Gail Borkowski: Motion passes six to one with Councilmember Swegles dissenting.

Director of Human Resources Erwin Young: So, I will distribute the ballots. It'll look the same but we'll have yellow highlights of the four individuals and so you'll vote for three of those four.

Mayor Spitaleri: I gotta wait for awhile.

Director of Human Resources Erwin Young: Yeah.

Mayor Spitaleri: Okay, we'll move on to the next item. Everyone's ballot in. Okay, our director of resources is going to go away and tally and we'll move on to the next – Vice Mayor Hamilton.

Vice Mayor Hamilton: I make a motion to continue this item for another few minutes or do we want to just take a break.

Mayor Spitaleri: Why don't we go ahead and continue it. See if we can get a second.

Councilmember Howe: Second the motion.

Mayor Spitaleri: Second, motion second, continue this item.

Councilmember Howe: Until the mayor recognizes the director.

Mayor Spitaleri: Okay, okay, please vote.

City Clerk Gail Borkowski: Councilmember Whittum could you please vote?

Councilmember Whittum: What did I do? Oh, oh, I'm sorry

Councilmember Swegles: (unintelligible), I'll push for ya. .

Councilmember Whittum: Aye.

City Clerk Gail Borkowski: Motion passes seven, zero.

6. RTC 08–209 Public Hearing – Collection of Wastewater Charges for Property Outside the City on the Fiscal Year 2008/2009 Property Tax Roll

Mayor Spitaleri: Okay, thank you. Next item before us is RTC 08209

Revenue Systems Supervisor Tim Kirby presented the staff report.

Councilmember Howe: I might get the right item on the agenda yet. The service levels at rancho or where this is subject to – like the clean out of laterals, etcetera – does that, is it equal to what we do in the City of Sunnyvale?

Interim Public Works Director Mark Rogge: Essentially, it's the same service. There is sometimes some confusion over the clean out of the laterals within the City and outside. We clean out the laterals when it is a City street tree that is causing the difficulty, but outside of the City we don't have any City street trees.

Councilmember Howe: Sure, I mean, that's understandable. So, in your opinion, other than, if it's a tree owned by the City of Sunnyvale, the service is identical, the response time or very similar – the response time, the clean out of laterals, and/or any other wastewater service provided by the City is uniform throughout all of the people that we serve. Is that –

Interim Public Works Director Mark Rogge: Generally, that's true; however, it isn't true in compliance with the Council policy. And in that Council policy, repairs on laterals that are outside of the City limits are at the expense of the property owner.

Councilmember Howe: And the City provides that for people within the City of Sunnyvale and there's a charge, as I remember, it was twenty-one cents - Mary, help me out here – there was some number tacked on when we had somebody come up and say we gotta cut our rates back, so we cut em back and then we turned around in the next year, put it

back in, it was like twenty-one cents a month for that. Did these folks here pay for that service – the twenty-one cents or whatever is the correct amount – and then not receive the service?

Revenue Systems Supervisor Tim Kirby: I think I'm understanding your question correctly. The rates were the same for a city, an inside city and outside city. So the same increases did apply for both rate categories, yes. So they did pay the additional twenty-one cents increase for the lateral repairs when street trees are involved, City trees.

Councilmember Howe: Okay.

Director of Finance Mary Bradley: So, to follow along with what Councilmember Howe is saying, then the rates are all the same and included in the overall cost is the repair of the laterals for City street trees, which does not occur in Cupertino or in Rancho Rinconada, because there are no city street trees. I think that was your -

Councilmember Howe: Yep, so are these folks paying for something that they don't receive?

Interim Public Works Director Mark Rogge: I think the rates are in compliance with the Council policy, which basically states that the outside rate payers are to pay – ah, let me quote it here – shall pay the full cost of the wastewater management system, in addition to a higher rate of such special service, outside customers should also pay all costs for special maintenance and necessary repairs. So that follows that –

Councilmember Howe: And that - adopted Council policy.

Interim Public Works Director Mark Rogge: That is correct

Councilmember Howe: Okay. And in your opinion – and this - now we're going to opinions – that's the policy and that this complies with Proposition 218,

Director of Finance Mary Bradley: On that one, I would strongly say yes because we do not add any additional overhead onto the outside – the people outside – we treat them exactly the same way as we do in the City.

Councilmember Howe: Thank you.

Mayor Spitaleri: Councilmember Whittum

Councilmember Whittum: Oh, just a minor typo for the clerk when we do this. On Attachment A, page two, on the top, in the list of Councilmember's names, I'm sure that will get corrected – I just wanted to – just a typo.

City Clerk Gail Borkowski: Page two?

Councilmember Whittum: Page two of Attachment A

City Clerk Gail Borkowski: Of this report?

Councilmember Whittum: Right, under the list of Councilmember's names.

Revenue Systems Supervisor Tim Kirby: Yes, our apologies for that oversight.

Mayor Spitaleri: Snuck in there again, didn't he. Okay. Any other questions of staff? Seeing none, I'll go ahead and open to the public hearing. We have a card from Don Mackenzie.

Member of the public Don Mackenzie: I'm Don Mackenzie. Thank you for your hospitality, I don't live in Sunnyvale, I live in Cupertino which is the area you were talking about, and I hate to see where this agenda goes after solid waste for your City to liquid waste from your neighbors but anyway, the problem – you know – this thing goes back a long way – you know - this thing is a fifty year old deal that got set up. And my primary concern is not with the rates as much as it is with having a system that works. We do have trees planted along the street in Cupertino. We've got a lot of trees in Cupertino, you've got a lot of trees in Sunnyvale. It does sound like there's a difference between Sunnyvale trees and Cupertino trees as far as – you know – how you look at them. Again, my problem is, we need a system that works And my house is fairly new so I can get – you know – the wastewater down to the property line, but I have no way to get it from my property line to your main line unless you build a pipe that runs from my property to the main line. You know, when that thing fails, what am I supposed to do? No plumber will touch that thing. Your own crew has come out a couple of times and said this thing is old, it's creaky, and your own crews don't want to touch this thing. And no plumber is going to take the risk of taking a whole neighborhood down, destroying your system, destroying his liability and the whole thing. You know, we are paying the same charge – I mean you kind of gerrymandered around that thing but you're charging us the same as you're charging people in the City and it seems like we should get the same service –which says when a tree or –you know - these things are old, red clay pipes that are - you know - I believe they're fifty-eight years old so they just crumble and have problems with them. And of course you run into the issue of nexus that you're basing this on a cost of service, but your cost of service in Rancho Rinconada, if you're not going to maintain those laterals from property lines out to your main line, is going to be significantly less. That's the part of the system that breaks. And uh so, I'm really looking for a solution to - you know - do I need to carry buckets out to the middle of the street to get into your main line. I don't have a way of building a pipe under a public street, under a public sidewalk to get from my property line to your sewer system.

Mayor Spitaleri: Ok, thank you. That was the only card I had on that subject and I'll go ahead and close the public hearing. Councilmember Howe.

Councilmember Howe: Question of the City staff. The – in the City of Sunnyvale, if it breaks between the main line and the property line, does the City of Sunnyvale replace that line?

Interim Public Works Director Mark Rogge: Excuse me. That's correct. Let me just quote the policy is that - it say to continue to make landowners responsible for maintenance of sewer laterals with the exception that the City will make repairs to laterals between property line and sewer mains caused by the -

Mayor Spitaleri: Time's up.

Interim Public Works Director Mark Rogge: by the street trees.

Councilmember Howe: If you could start the sentence over again, I'd appreciate it.

Interim Public Works Director Mark Rogge: Basically, it says that the responsibility for the laterals is with the homeowner, even within the City, except for when City street trees are causing the problem.

Councilmember Howe: Okay, so age would – age of the pipe would require – if age caused the failure and not a City street tree, that would be the responsibility of the property owner in the City of Sunnyvale.

Interim Public Works Director Mark Rogge: That's correct.

Councilmember Howe: Within the City limits. Okay, and in Cupertino slash San Jose, if that fails, that's the responsibility of the property owner again.

Interim Public Works Director Mark Rogge: That's correct.

Councilmember Howe: Okay. If a property owner wants to change that pipe, what is required of them to change the pipe from the property line to the City's sewer line?

Interim Public Works Director Mark Rogge: They would need to obtain an encroachment permit from, in this case from the City of Cupertino, for the work out in the public street and they would need to install the lateral in compliance with the City of Sunnyvale's standard specifications for sewer lateral.

Councilmember Howe: Does that put the individuals in a catch twenty-two where they really can't comply with both.

Interim Public Works Director Mark Rogge: Oh, I don't believe so.

Councilmember Howe: Okay. Mr. Mayor.

Mayor Spitaleri: Yes Councilmember Howe.

Councilmember Howe: Can you reopen the public hearing and allow the speaker to come back for me to ask him a question?

Mayor Spitaleri: Sure.

Councilmember Howe: Thank you.

Mayor Spitaleri: Don.

Councilmember Howe: Don, the question is, is if you have this failure in this pipe, have you asked for an encroachment permit from the City of Cupertino to be able to do this work?

Member of the public Don Mackenzie: It hasn't reached the point where the pipe has totally failed. You know - we've been able to – you know –hobble it along. It used to be – you know – the City of Sunnyvale would come out and they would – you know – clean out

the pipe and it would work for another couple of years and so on. The last time it happened, the guy came out and said basically, you're on your own so - you know - he has some suggestions, we put some chemicals down - it ate up some tree roots - eventually this thing is going to fail and we'll reach that point - but I also have the problem that I know my neighbor - well the City of Sunnyvale replaced my neighbors line a year and a half ago - and um, I have a problem with where am I going to find a plumber who's willing to dig in fifty year old sewer lines.

Councilmember Howe: Okay.

Member of the public Don Mackenzie: Encroachment is half of it; the other half of it is finding a contractor. I'm really concerned about that half.

Councilmember Howe: Okay. Thank you and thank you Mr. Mayor.

Mayor Spitaleri: Vice Mayor Hamilton. Oh, I'm going to close the public hearing.

Vice Mayor Hamilton: I think John answered my question or John asked the question I was going to ask.

Mayor Spitaleri: Okay. Any other questions of staff? No discussion. Okay, please vote. No, let's have a motion - excuse me, I'm ahead of myself. (unintelligible) says there will be a motion.

Councilmember Howe: I'd like to hear the City Clerk read that motion back.

Mayor Spitaleri: (unintelligible) Okay, I didn't see what light went on. Councilmember Swegles.

Councilmember Swegles: Yeah, I'll help you out Tony. Adopt the resolution approving proposed assessment.

Councilmember Lee: Second.

Mayor Spitaleri: Councilmember Lee second. Okay. Any other questions or discussions? Seeing none, now please vote.

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Okay, I'd like now to return to item three.

***3 RTC 08-231 Selection of Community Members to Serve on Interview Panels for
 (Continued) New Sunnyvale City Manager**

Mayor Spitaleri: Director of Human Resource has some new news for us.

Director of Human Resources Erwin Young: Erwin Young, Director of Human Resources. I have the revised voting. The tie is broken. Two Councilmembers did not put their names on the ballots so I did a little handwriting analysis and guessed which Councilmember voted for those folks and so - but that doesn't change the numbers, it only may change which Councilmembers it is associated with. So, I'll pass out the ballots.

Mayor Spitaleri: Okay, thank you.

Councilmember Lee: Alright.

Mayor Spitaleri: Vice Mayor Hamilton

Vice Mayor Hamilton: For the benefit of those at home who aren't looking at the piece of paper that we're looking, I thought it might be appropriate to read out the names of the panel members.

Mayor Spitaleri: That have been selected to both panels.

Vice Mayor Hamilton: Yeah

Mayor Spitaleri: Okay. Okay, fine.

Vice Mayor Hamilton: Want me to do that?

Mayor Spitaleri: Yes, vice mayor please.

Vice Mayor Hamilton: So for the, the business panel we have Joe Antuzzi, Adam Montgomery, Barbara Perzigian, Jim Telfer, John Vidovich, Howard Chuck, and Leslie Lawton – I think I got everybody there - and Adam Simms, yes, I knew I missed one, so Adam Simms. And then for the community panel we have Barbara Fukumoto, Jim – James Griffith, Robert Harms, Glenn Hendricks, Julia Miller, Arthur Schwartz, Larry Stone and David Simons.

Mayor Spitaleri: Okay. Thank you.

Vice Mayor Spitaleri: Those are our panels. We'll see you all on August 4th.

Mayor Spitaleri: Thank you. Thank you and I'd like to-

City Clerk Borkowski: Was there a motion required for that, or?

Mayor Spitaleri: I think to make it official, we ought to make it a motion.

Vice Mayor Hamilton: I move acceptance of the three additional folks.

Mayor Spitaleri: Vice Mayor Hamilton. Okay. Councilmember Howe.

Councilmember Howe: I'll second the motion.

Mayor Spitaleri: Questions, discussions? Seeing none, please vote. Ok, thank you. I want to take just a quick moment before we move on to -

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Thank you. I just want to take a quick moment before we go on to the next item to thank the subcommittee for the work and time they put in to bring us this

system and I think we got a good couple panels and will help us select the next important person in our City, so thank you. Councilmember Swegles.

Councilmember Swegles: As a nine thirty mayor, I wanted to know if you wanted to look at the agenda and see where were at.

Mayor Spitaleri: Ok, I'll take note of that. We have two items left before us.

Councilmember Swegles: Three items.

Mayor Spitaleri: Three items left before us. How'd we get three. Okay. Seven, eight, nine, three items. Sorry, we'll leave it up to my colleagues.

Vice Mayor Hamilton: I suggest that we just power through because at least the last one and probably the last two are not going to take very much time at all, and we also have a study session after this, which I don't think will take very long, but is an important thing to discuss. So, I'm recommending that we just keep going.

Mayor Spitaleri: Okay. Rest of the members? Okay with the rest of the members – okay then we'll go ahead and forward then. Next item before us is ROT – RTCO- 08220. Staff report.

7. RTC 08–220 Public Hearing to Cause Charges for Non-Payment of Utility Services to be Placed on the FY 2008/2009 Tax Roll

Revenue Systems Supervisor Tim Kirby presented the staff report.

Mayor Spitaleri: Any questions of staff? Seeing none, I'll open the public hearing. I do not have any cards on this item. Okay, I'll close the public hearing. Council's pleasure.

Councilmember Lee: Ready for a motion. Adopt the attached resolution causing charges for non-payment of utility services to be placed on the FY 08/09 tax roll of the revised attachment c and exhibit a totaling twenty eight, ninety-six, sixty three.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Second.

Mayor Spitaleri: Okay, any further discussion, questions? Seeing none, please vote.

City Clerk Gail Borkowski: Motion passes seven, zero.

Mayor Spitaleri: Thank you staff. Next item before us is item RTC 08180.

8. RTC 08–180 Consideration of Motion to Rescind Vote on the Number of Councilmembers Required to Sponsor a Study Issue Paper

Mayor Spitaleri: Vice Mayor Hamilton

Vice Mayor Hamilton: I can speak to this one. This is essentially the motion made last week to rescind the action we took to reconsider the study issues. I'm not really sure if I need to

go over the whole history of it again, but I had asked for this to be rescinded basically, because I had some information that came to me after the, after the public hearing that if I had it during the public hearing, I probably would have voted differently, so, um.

Mayor Spitaleri: Okay. Alright, are you making a motion

Vice Mayor Hamilton: I think we need to have a public hearing. It looks like the attorney might have -

Mayor Spitaleri: Oh, okay. Excuse me, your right

Vice Mayor Hamilton: I have something -

Mayor Spitaleri: (talking over) Any other questions of the Vice Mayor or staff or anyone want to have a discussion on that? Go ahead and open the public hearing. I have a couple of cards. Mei-Ling Stefan.

Member of the public Mei-Ling Stefan: Good evening. My name is Mei-Ling Stefan. I hope you will rescind the vote that would stifle our study issue process. Thank you for staying in touch with citizens.

Mayor Spitaleri: Thank you. Bill Donnelly.

Member of the public Bill Donnelly: Good evening. I'm a twenty-eight year resident of Sunnyvale and I operated a CPA firm in Sunnyvale for twenty seven years.

Mayor Spitaleri: (unintelligible) could you state your name for the record please.

Member of the public Bill Donnelly: Bill Donnelly.

Mayor Spitaleri: Thank you.

Member of the public Bill Donnelly: I was not in attendance at last weeks meeting but was able to watch in on the internet. Council meetings and baseball go quite well together. I want to thank the Council for providing an opportunity for me. I also - based upon watching on the internet last week - I want to commend mayor - the mayor and Councilman Whittum for supporting the motion. Only one member needed to be voting or make a request, excuse me, but the staff investigate a study issue. Sunnyvale residents have confidence in you or they would not have elected you to the City Council. They trust you not to waste staff time. They know you will not abuse that privilege and should you abuse that privilege, you always have the opportunity to come back and change your position on this issue. It seems to me that if I as a Sunnyvale resident see a problem and I can get one Councilmember to do some investigative work and get the staff to look into the problem, I don't see why one Councilmember can't do that, why that Councilmember needs to find two or more Councilmembers to have that be done. A side point I think would be that by keeping it to one, there would be no question ever of violations of the Brown Act, and I know you're very concerned about that particular issue. The question I would ask the Council is - are you're not concerned about the view of the minority? It seems to me that a vote for anymore than one person discounts the views of any minority members of the Council. I as a citizen was very concerned about that. I would relate you to a board of directors of a corporation - you're the equivalent of it in the public. I've been on several boards of directors. Some

boards seek input from all members of boards, other boards encourage members to go along, to get along. I've been on both and it's my view that the one that creates a greater intent of people to provide their input – I think that's a much better board – I think it's a much better City Council. So, I hope that the members that did not initially vote with the mayor and Councilmember Whittum will have a second thoughts and will change their vote to put as I understand as it is now, or was previous to your vote, that only took one Councilmember to have the staff investigate a study issue. Thank you very much for your time and I'll continue to watch you on the internet and baseball.

Mayor Spitaleri: Okay, hang on a second. I don't know if you have a question.
Councilmember Swegles.

Councilmember Swegles: Yeah, I do. Have you ever seen our study issues workshop – how we go through that process?

Member of the public Bill Donnelly: I have not.

Councilmember Swegles: Okay, just an fyi, one of the things that happened, just because one individual sponsors it, it does not necessarily become a study issue. It has to have a majority of the votes to go forward. So, in other words, even if you had only one individual support an item, he would still have to get the consensus of the Council.

Member of the public Bill Donnelly: I understand that, but wouldn't they have to – if it was only one vote – wouldn't they be able to bring it up in front of the Council?

Councilmember Swegles: Exactly, but the – in order for it to go forward – it has to have a majority of Council.

Member of the public Bill Donnelly: I understand that.

Councilmember Swegles: Okay.

Mayor Spitaleri: Okay, thank you. Thank you. That's all the cards I had for that item so I'll go ahead and close the public hearing. Vice Mayor Hamilton – Oh, Councilmember Whittum.

Councilmember Whittum: I have a motion at the appropriate time Mr. Mayor.

Mayor Spitaleri: Okay, Councilmember Whittum – oh excuse me – city attorney.

City Attorney David Kahn: David Kahn, City Attorney. Just one quick clarification, Vice Mayor Hamilton used the words motion to rescind and motion to reconsider I believe and as discussed last time, this is a motion to rescind. If it passes then it has the affect of putting everything back to the way it was before this motion was voted on and passed, and when it comes up again on the agenda it would not be for reconsideration, but in the context of initial action on the study issue process.

Councilmember Moylan: Point of order Mr. Mayor.

Mayor Spitaleri: Ah, just.

Councilmember Moylan: It doesn't – our motion last week to put this on the agenda this

week – did not put everything up for grabs, it was only for the number of Councilmembers it would take to sponsor a study issue.

City Attorney David Kahn: Yes, that's correct. That portion –

Councilmember Moylan: Okay, thank you.

City Attorney Kahn: That portion alone.

Mayor Spitaleri: Thank you city attorney. Vice Mayor Hamilton.

Vice Mayor Hamilton: I would like to make a motion to rescind the previous action and I will be happy to speak to the motion at the –

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: -the appropriate time.

Mayor Spitaleri: Do we have a second.

Councilmember Whittum: Second.

Mayor Spitaleri: Okay. We have a motion and second. Vice Mayor Hamilton.

Vice Mayor Hamilton: I didn't explain why I asked for the rescission last week because I didn't want that to be a factor in whether or not people did it. But I think at this point its appropriate to say why I think – after sleeping on it when we had the original vote and talking to some constituents, there were a couple of things that came to mind and I realized that I was really troubled by the fact that we had to have more than one Councilmember support any issue. There've been lots of – you can name any number of instances – the current hands free cell phone law comes to mind where one person kept championing it and everyone else told them they were crazy - yet, it took a long time, sometimes these thing do, but it finally made it through. The discussion that we had that night when we originally made this motion in a lot of ways, in my mind equated Councilmembers with board and commission members and I don't think that's an accurate characterization. We are effectively in the chain of command, the supervisors of the board and commission members. We have a greater position of public trust than board and commission members because we are directly elected and I think we have an obligation to serve our constituents and be a voice for them that may not other – that they may not otherwise have. I think too it politicizes the process. If you need to get more than one or two other people to support you, then your always trying to figure out how do I get those other votes to get my issue through – and I don't think that's something I really – I don't think that is necessarily a benefit to the citizens. I also prefer to look at all the ideas in the study issue workshop as one whole thing. I know that some of the actions we took that night - very rightly so - took the action of sort of cutting down the number of study issues because we were having these lists that would get carried on and deferred, and deferred and deferred and deferred, but I think also we shouldn't cut stuff off without looking into it in a greater context. There's been a lot of times when something isn't very important in February, but becomes very important by November, December, but if we dropped it in February it might not actually come back by November, December. They lose momentum and it doesn't happen. And I think it's important to make sure that we don't cut things off prematurely and I think that its important to be able to

champion something – the one thing I'm thinking of is - and it took me three years to get it done was but to revamp the City's law on car repair. That was something I picked up precinct walking my first term – it took me three years to get it before the Council, but there was a lot of people that showed up that night and it made a difference for a lot of people. So, I think it's important to allow us to fulfill our role as seven individuals representing a hundred and thirty-seven thousand people, but to be able to champion individual causes without having to get a Council's support. That was my rationale for asking for this rescission.

Mayor Spitaleri: Thank you. Councilmember Swegles

Councilmember Swegles: Yeah, I'll be having a dissenting opinion. As I mentioned last week everyone talks about having open government and yet the vice mayor stated that if we have three people, we'd only be able to ask two people to support. And especially if one of them doesn't support the issue, that means you can't ask anyone else for it and you have to go to an open forum. If you only need two people to support a study issue, and you can still only ask two people if both of them turn you down. So the bottom line is when open government – with, we want open government and we need to do open, and do our requests out in front like we did on June 24th when Councilmember Lee gave a report about banning plastic bags and then got support for a study issue from Councilmember Howe and myself, giving him the three votes he needed to have a study issue (unintelligible). This is the way we should be doing this, out front and front door of everybody. Not behind closed doors or lobbying outside of the public. Let's show our constituents that we are open government and keep the original motion to needing three and not two. Remember when we look at what study issues we will be actually authorizing to go forward, we always have a lot of items that we wind up cutting. By using the three member support it would help control the number of study issues and we would have to - not have to address so many at the final workshop.

Mayor Spitaleri: If I may, I would like to make a comment if I may. Council.

Councilmember Moylan: You're in charge.

Mayor Spitaleri: Right, unfortunately, I was not at the Council meeting that this took place. I do applaud my colleagues at looking at a system that reduces the amount of study sessions or the amount being put before us, so we could be more proficient and address those issues. But I do have a problem with requiring three Councilmembers to approve a study issue. I believe it starts stifling our community to come forth with new information. I see that as an avenue that could be very political and I think that when our citizens come before us to ask us to look at an issue, we should be able to, as an individual, bring that forth. It still needs to go through the process of being ranked and looking at the time and that's where it will shake out whether or not it's a program that's worthy to go forward. I share the same concerns as Vice Mayor Hamilton. Case study was my issue some two and a half years ago. It didn't get high on the bar but I came back again – I would hate to think that, not this Council, but other Councils might say – we'll, you know we've already had that before us two or three time so lets not deal with that. To me, I think it's important that our community be able to come to the Councilmembers and raise an issue to us that they think should be addressed by us and we should be able to bring that forth. I'm for all streamlining the system, making it efficient, but I'm not for putting up roadblocks. So, I would urge my colleagues for us to go back and re-look at this issue and let's talk about it again to see if we can come up with a way of a compromise that maybe address the concerns on that

particular area and how many of our Councilmembers we needed to move forward an issue. Thank you. Councilmember Moylan.

Councilmember Moylan: Okay, so, we had a staff recommendation for four. We had a previous situation of one. It has become increasingly obvious to a number of citizens who fed this back to me that the previous situation was a way of shuffling citizen concerns under the rug. A citizen would come down here, lose some vote, Councilmember would go: "But wait, I'll sponsor a study issue on that – we'll take care of your problem." Study issue comes up, there's no other support for it, it gets ranked one hundred twenty-ninth and it dies a quiet death. And the situation we had for several years, not just last year, but for several years, was not sustainable. The number of study issues on the table is getting bigger and bigger and bigger and bigger and the number we can actually do was staying the same. So, we need to do something to fix that situation. I didn't like the idea of requiring a Council majority off the bat to respond to something, because there are some things that other people have brought up that after awhile I agree with and the same - vice versa. As you know, because I made multiple attempts to make a motion for two, analogous to making a motion and seconding the motion, so you know it has some level of support. That failed on tie votes several times. So, I supported the three because I thought it was going to go to four if I didn't go for three. But I think we're being dishonest if we say to a citizen, six people are totally opposed to studying this issue but I'm for it and we're going to take care of you – because that study issue is doomed. That study is doomed and it's just pandering to someone. Part of the reason that our job is hard is because we have to prioritize – we have to prioritize with the budget and everything we can't afford to pay for, people are unhappy about. We have to prioritize with study issues and every study issue we can't afford to do, people are unhappy about. The ones that get done are the ones that have support, that get ranked high by multiple Councilmembers. And so, it's not unreasonable to say it should take at least two of em to sponsor it. If you don't have two people, it's doomed anyway. So, we need to fix our previous system – it was unsustainable. The number of study issues getting bigger and bigger and bigger and bigger. So, it seems to me that we have three Councilmembers who would prefer the previous system with one, and we have two Councilmembers who would prefer two, and we have two Councilmembers with three. So, I'll support this motion but I'll not support the previous system of one vote, and I'm hoping we can settle on two, which is the middle ground.

Mayor Spitaleri: Thank you. Councilmember Howe.

Councilmember Howe: Thank you Mr. Mayor. What we have is a question of how are we going to spend the resources in the City of Sunnyvale. And leaving this last year being a special circumstance on the number of study issues that came in somewhat late – leaving that totally behind – what's happened is over the years is that we have decreased the amount of staff time that we have for study issues but we are increasing the number of study issues that the staff has to study and write a position paper on and consume City resources. So, Councilmember Moylan certainly has the right question – where's the level that we should – what is the level or what is the hurdle that it has to go through before we start spending City resources on analyzing the situation before a majority of the City Council has even said this is something we want to spend money on. I think we've gone to a place where our resources one, are limited and two, we are spending more and more resources on items that are being ranked below the line and we're not utilizing our City resources acceptably in my opinion in the study issue process as its evolving.

Mayor Spitaleri: Thank you. Vice Mayor Hamilton.

Vice Mayor Hamilton: I acknowledge – it's a fact that the study issue list has grown – the part of this that was not – that I did not ask to rescind deals with that in some ways. It resolves the sub elements from study issue ranking – so that's not even a question anymore. It makes sure that things that don't get support consistently get dropped and I would prefer to see the glass as half-full. Some might argue that it's a way of sweeping citizen concerns under the carpet, I would argue actually it's a way of giving people who are – it's the first step in getting an issue that people are concerned about and giving it momentum. Because if you propose it and it doesn't get the other votes, then the citizens are going to go: "Well, it's not going to go anywhere because it didn't get enough votes." I sort of look at the study issue list as a wish list of things that I want to be able to consider and look at and in the context of all the staff hours we have. And I think that the current system is fine – I think that - I don't think we're going back to status quo – I think we have made some adjustments with the stuff that's not being considered tonight that would reduce, reduce our study issue list. I just think in this one particular thing, I think it's very important that we don't cut off the avenues of having things to consider.

Mayor Spitaleri: Councilmember Whittum.

Councilmember Whittum: Oh thanks. Just real briefly, I wanted to second some of the comments that were made and also thank people involved in bringing this back. I think it's a credit to us all that we're spending that much time trying to figure out how to work on the issues that residents are bringing forward. I think having one Councilmember able to sponsor a study issue, really respects a variety of our background and experience that we all have, the fact that we're in touch with different segments of the community to different degrees, and it also takes account of the fact that in this Council/Manager form of government there's really not a lot we can do to help address some specific resident concerns that they bring up to us other than sponsor a study issue in the end and the system has worked well for a long time and I'm very glad to see that we are considering rescinding this and going back to the original system. Thanks.

Mayor Spitaleri: One final comment before I ask for any more. I think our system, and correct me if I'm wrong – I think I remember when the study issue system started in Sunnyvale some time back – started in a little, small room in the Public Safety office in a little area. It's a unique system we have in Sunnyvale and I think it's a great one. As everything else, it grown, grown into a monster and one of the things that we need to address and I think Councilmember Moylan addressed how to reduce the amount of study issues that come forth. And that's a good system, but I think that we should have the ability to – can I have moment here please, thank you.

Councilmember Moylan – Sorry, Mr. Mayor, I'm just confused on what's on the floor.

Mayor Spitaleri: (unintelligible) alright and I think we've done a lot of good work in reducing the amount of study issues and taking into account what Councilmember Howe is the resources. So, I think that there's room to re-discuss that issue on how many at our next meeting if this passes and I think we can find a compromise that will work for all of us. And that's what I'm hoping we can do. Councilmember Moylan.

Councilmember Moylan: Okay, I was trying to be subtle but obviously did not succeed. There are differing interpretations as to what the effect of this motion would be. Would this motion immediately restore the previous system of it takes once Councilmember to sponsor

a study issue or would it require that we then make another decision to decide on how many Councilmembers it takes to sponsor a study issue.

Mayor Spitaleri: City attorney.

City Attorney David Kahn: If this motion to rescind passes, then you would revert to the prior methodology of sponsoring a study issue, which would be one person to sponsor until such time as is considered by the Council and a different action is taken.

Councilmember Moylan: And could we take that different action immediately following this motion? Could we -

City Attorney David Kahn: It would be on the following week's agenda.

Mayor Spitaleri: (talking over) - it would be on the next -

Vice Mayor Hamilton: (talking over) - other agenda

Mayor Spitaleri: - next agenda take it up. Tonight's just a, as he says, a motion to rescind it and then take it back up at another Council meeting to address the concerns you have and the concerns other Councilmembers have.

Councilmember Moylan: Does this motion include that it automatically goes back on another Council agenda so we vote on this again and we don't just leave it at the previous system. Oh, well, I would need to hear that before I could support this. I'm not going to vote for the previous system, it doesn't work. Okay. I'll vote for this motion if we are guaranteed to vote on this topic again and decide between one, two, three, or four. But if it's just we're guaranteed to do one, I can't support that.

Mayor Spitaleri: No, I don't think that's the motion.

Vice Mayor Hamilton: (Spoke off mike – unintelligible)

Councilmember Moylan: Well, how about a friendly amendment. So part of this motion is now to place this issue on the agenda again so we can vote with seven people on how many people we'd like to have it be required – okay

Mayor Spitaleri: Okay.

Councilmember Moylan: If we'll do that – okay – then I'll support it.

Mayor Spitaleri: Is that okay?

Vice Mayor Hamilton: Yeah (Off mike – unintelligible).

Mayor Spitaleri: Is that ok with the second?

Councilmember Whittum: Sure.

Mayor Spitaleri: Okay. Any other, you have more that you want to say?

Councilmember Moylan: No

Mayor Spitaleri: Ok, then without any further discussion –

City Clerk Gail Borkowski: So, are you voting to – excuse me – are you voting to put this on a date certain as a part of the motion? To bring it back -

Vice Mayor Hamilton: Let me look at the calendar. I'll get back to you on that, hang on a second.

City Clerk Gail Borkowski: Well, I do just want to point out that I believe the mayor will not be here on the twelfth of August.

Vice Mayor Hamilton: It will not be on the twelfth. It will be on some day when all seven of us are here.

Councilmember Moylan: Okay. We're not going through all those three to three votes again on this.

Vice Mayor Hamilton: No. I can pull up a date now or – nineteenth, works for me

Mayor Spitaleri: Hang on a second.

Vice Mayor Hamilton: You'll be here.

Mayor Spitaleri: I will.

Vice Mayor Hamilton: Yeah.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: I hope so.

Mayor Spitaleri: I believe I will but I –

Vice Mayor Hamilton: Or else you'll leave me running two meetings.

Mayor Spitaleri: Okay.

Vice Mayor Hamilton: So the motion, to clarify, is to rescind the previous action as stated in the report and to place this – just that part of it, not the rest of it, but just that part of it, on the calendar on August 19th.

Mayor Spitaleri: I'm here. Okay. Okay, is that okay with everyone, the motion, to include the date, I'll be here. Okay, any further discussion? Hearing none, please vote.

City Clerk Gail Borkowski: Motion passes five to two with Councilmembers Howe and Swegles dissenting.

Mayor Spitaleri: Councilmember Lee.

Councilmember Lee: Since the issue is so fluid and the fact that I actually did sponsor a - or try to sponsor a study issue tonight does it mean that with the old policy in place that issue is now on.

Vice Mayor Hamilton: If you propose it again. Now that we rescinded it, propose it again.

Councilmember Lee: I propose it again. I don't restate it, I think everybody knows – that so – I propose that study issue. Thank you.

9. **ORDINANCE No. 2874-08** **Adoption of Ordinance No. 2874-08 Amending Table 19.20.030 of Section 19.20.030 (Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zones) of Chapter 20 (Commercial Zoning Districts) of Article 3 (Zoning Districts, Uses and Related Development Regulations) of title 19 (Zoning) of the Sunnyvale Municipal Code to Allow Donation Centers for Used Goods in the Neighborhood Commercial (C-1) Zoning District and to Eliminate the Separation Requirement**

Mayor Spitaleri: The next item before us -

Vice Mayor Hamilton: Second reading of an ordinance.

Mayor Spitaleri: – it's a reading - second reading of the ordinance. And city clerk or is that city attorney?

City Attorney David Kahn: Council, good evening. David Kahn, city attorney. Agenda item number nine is the second reading of the ordinance for donation trailers. It's on the general business calendar rather than the consent calendar because it was not a unanimous vote at the prior meeting, so it did not go on the consent calendar. I would note there is a replacement for the item that is in your agenda packet that should be on the dais this evening that better reflects the action that was taken by the Council and should be substituted for the original item nine. So, with that I'm available to answer any questions.

Mayor Spitaleri: Okay. Any questions of the city attorney? Seeing none, do I need to open this up to the public hearing? I'll open up the public hearing. I do not have any cards. Anyone want to speak on the second reading of this ordinance? Seeing none, I'll close the public hearing. City Clerk, would you please read the ordinance.

City Clerk Gail Borkowski: The City Council of the City of Sunnyvale amending table 19.20.030 of Section 19.20.030, permitted, conditionally permitted, and prohibited uses in commercial zones, of chapter twenty, commercial zoning districts, of article three, zoning districts, uses and related development regulations of title nineteen, zoning, of the Sunnyvale Municipal Code to allow donation centers for used goods in the neighborhood commercial, C-one zoning district, and to eliminate the separation requirement.

City Attorney David Kahn: Could the clerk read that one more time please. Just joking.

Vice Mayor Hamilton: I believe we need a motion on this.

Mayor Spitaleri: Do we need a motion for a second reading?

Vice Mayor Hamilton: I move we approve the ordinance.

City Attorney David Kahn: You do, you do.

Mayor Spitaleri: Oh, okay, is there a second?

Councilmember Swegles: Second.

Mayor Spitaleri: Okay, there's a second. Gail, I hate to do this to you. Nah, I'm just kidding. Ok, all in favor of the motion, seconding, discussion, questions? Please vote. Okay

City Clerk Gail Borkowski: Motion passes six to one with Councilmember Whittum dissenting.

Mayor Spitaleri: Okay. Okay, before us now is non-agenda items and comments. Council. Councilmember Howe.

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Councilmember Howe: Thank you very much. I would ask that – last week or recently we dealt with water rates and we dealt with the mobile home community and there was questions as to which rates they would be utilized – whether it commercial or residential and all kinds of things – and I'd like to ask if in one of the future city manager's report, if you would address how we will deal with that in the near future. Is that an unreasonable request Ms. Chan?

City Manager Amy Chan: My apology, can you repeat what you were asking.

Councilmember Howe: Sure, we dealt with some water meters, and we dealt with water rates, and a number of things, and one of the questions was what rate should the mobile home community be utilizing and there was a question. And so the motion – and I believe if I'm correct, I made it – and it excluded anything to do with mobile home – the mobile home community dealing with water meters and what rates they would come under. And I'd like to have a staff report saying this is what the staff recommends that they be commercial or they be residential or whatever is true, but I'd like to not just lose it out there till the next year when we set the water rates.

City Manager Amy Chan: Yes, I'll get back to Council in terms of the dates that staff plans to–

Councilmember Howe: Sure

City Manager Amy Chan: - bring back to Council –

Councilmember Howe: Sure, that's all I'm asking.

City Manager Amy Chan: Yeah.

Councilmember Howe: Thank you very much.

City Manager Amy Chan: Sure.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: On June 24th, there was a study issue proposed to ban plastic bags in the City of Sunnyvale. I would like to propose a study issue which could be simply an amendment to that original one or a separate one which would be to consider requiring stores to charge for bags instead of outright banning them. And if that's not acceptable, then I'm proposing it as a separate study issue.

Councilmember Lee: Councilmember Hamilton – Oh, excuse me – Vice Mayor Hamilton, that issues was discussed actually at our recent board of directors meeting of the Santa Clara Cities Association. The reason why the charging of plastic bags was not proposed is it turns out there's actually a state law that does not allow the charging of plastic bags, what was being told by us, therefore, that is – because of state law – that preempts what local jurisdiction can do – so in other words - we ourselves as my understanding would be - I could be wrong – and I think might have to ask the city attorney to confirm whether that's correct on the state law – that we cannot adopt something that of course is against the state law – they preempt us.

Mayor Spitaleri: Vice Mayor Hamilton.

Vice Mayor Hamilton: Then, I would like the city attorney to look into that because IKEA charges for their bags and they saw a ninety-five percent drop in bag usage when they started charging for their bags. And I think, for a number of reasons, I think there's issues with banning them outright. I think if the goal is really to reduce bag usage issues, I think charging is a more equitable way to deal it, but that's what the study issue will bring out but - if you could look into that David, I would really appreciate it – cause I know there are some stores around here that do charge.

City Attorney David Kahn: Vice Mayor Hamilton, I'll look into that and get back to both you and the Council on the answer to that question.

Mayor Spitaleri: Councilmember Swegles.

Councilmember Swegles: Yeah, in regards to that item – I know a majority of the stores my wife shops at, give her a nickel every time she brings in a cloth bag – for every cloth bag that she uses as opposed to using the plastic. So ah, they do have a program in place that will help encourage no plastic.

Mayor Spitaleri: Vice Mayor Hamilton

Vice Mayor Hamilton: You know, my husband and I had this conversation and in Europe they charge for plastic and everybody brings their own bags because giving someone three or five cents for a bag is not nearly as much incentive as charging them twenty cents for it. You're gonna get a lot more response the other so -

Mayor Spitaleri: Okay, I do have one question. At our last Council meeting we

talked about placing an issue on the agenda that dealt with Valley Medical Hospital proposition bond.

Councilmember Lee: Yeah, there's a bond issue (unintelligible).

Mayor Spitaleri: I didn't pay attention. I thought it was supposed to come this Council meeting. Vice ah, Councilmember Swegles.

Councilmember Swegles: Yeah, mayor, I did – I remember the same thing that you did and I was kinda surprised it wasn't on here, but I did talk to our IGR person and the reason why it was not brought forward was that it really hasn't been documented as Proposition A or Item A yet – until I think its August she said –

Mayor Spitaleri: Oh, so (unintelligible) -

Councilmember Swegles: - so we don't want to endorse something that may be a different definition.

Mayor Spitaleri: Right, thank you very much then for that information. Okay. Okay, any other information or good news you want to share with anyone.

Vice Mayor Hamilton: We're adjourning to the study session.

Mayor Spitaleri: Right.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 08-222 Revised Boards and Commissions Quarterly Attendance (Spring 2008) (Information Only)
- Draft minutes of the Board of Library Trustees Meeting of July 7, 2008

ADJOURNMENT

Mayor Spitaleri: Okay, well then we're going to go ahead and adjourn this Council meeting at ten, ten to our study session in the West Conference Room.

Gail T. Borkowski
City Clerk

Date

Attachment A